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ABSTRACT

Nine state education agencies (SEAs) were studied in terms of SEA organization and administration in response to P.L. 94-142, The Education for All Handicapped Children Act. Six major issues were examined: strategies used by states to implement P.L. 94-142, major impact of P.L. 94-142 on the SEAs, creation of unintended and/or unforeseen consequences at the SEA level, ways in which SEAs coped with unforeseen consequences, patterns of implementation and impact, and creative coping strategies used by SEAs to implement P.L. 94-142. Among findings were high levels of staff time and effort related to the implementation of the SEA supervisory role which has yet to be fully implemented in any of the states; umbrella-type advocacy organizations influenced the implementation process; withdrawal of services by other state agencies and creation of tensions within the SEA and between the SEA and other agencies were unintended and unforeseen consequences; and in all states, the number of professional staff within special education increased. Eight policy implications, recommendations are presented, including that the SEA supervisory provision should be changed, and that uniform implementation of related services should not be expected. (CL)

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P.L. 94-142: A STUDY OF THE IMPLEMENTATION AND IMPACT AT THE STATE LEVEL

VOLUME I

FINAL REPORT

PREPARED FOR THE

U. S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION
WASHINGTON, D. C.

The conclusions and recommendations in this report are those of the Contractor and do not necessarily reflect the views of the U. S. Department of Education or any other agency of the Federal Government.

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Case study methodology, which is increasingly being used to assess the implementation of Federal legislation, is very demanding of those conducting the study, as well as of participants. Project staff must have a thorough understanding of the study objectives and parameters. Objectivity must always be maintained. Although sensitivity must be keen, empathy with participants must be minimal. Information gathering must be clearly focused; data aggregation and disaggregation must be extremely methodical. For participants, the burden goes far beyond the time-consuming nature of information gathering as such case studies often present risks to anonymity and confidentiality. That this study was conducted ahead of schedule, without major problems, attests to the professionalism exhibited by both the project staff and the participating SEA staffs, particularly Directors of Special Education.

The major information gathering and data analysis responsibilities were placed upon the TURNKEY staff, particularly Alfred Morin, following a conceptual model for assessing the implementation process developed initially by TURNKEY over the last three years. Analyses of the data, at various levels of aggregation, was conducted primarily by the Project Director and research assistant Sharon Nethers. Blair Curry assisted in various phases of the project. The professionalism exhibited by staff throughout the study is surpassed only by their dedication to its objectives in portraying a realistic picture of the implementation process of this extremely sensitive and unique piece of Federal aid-to-education legislation.

Throughout the study, constructive criticism and guidance were provided by several ED/OSE staff, particularly Max Mueller and Eileen Lehman, the Federal Project Officer. Particular acknowledgement and appreciation is expressed to Mr. Martin Gerry, who reviewed several drafts and analyzed policy alternatives. NASDSE staff, particularly Bill Schipper and Veda Cummings, assisted in general document gathering and preparing the analysis and profiles in Volume II.

Mere acknowledgement can in no way express our appreciation to those SEA officials who participated in this study. Without their cooperation, assistance, and support this study could never have occurred and these findings would not have been made available to the public.

Charles L. Blaschke
Project Director

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PREFACE

During this study, major changes in education legislation were enacted by Congress. The reader should be apprised of the schedule for this project and the context within which it was conducted.

The original proposal for the project was submitted to the Department of Education in October 1979 and was funded in September 1980. In addition to the in-depth case studies, which are the focus of Volume I, and the development of State Education Agency (SEA) profiles which are included in Volume II, the original proposal also included a substudy to validate the conceptual model, described in Volume I, and to project the probable consequences of changes in the Law and regulations. This component was not undertaken due to lack of funds at that time.

The field work, consisting of on-site interviews with state-level officials, was conducted during the period October 1980 through January 1981, during which time several proposals by the incoming Administration were being discussed. The analysis of information gathered through the case studies was conducted during the Spring, and preliminary findings were reported in May 1981. As the analysis was being conducted, a great deal of uncertainty arose regarding various administration proposals. Hence, anxiety levels were high among many state-level participants in the study.

Shortly after the preliminary findings were submitted for review and comment, the Congress enacted the Administration's Grants Consolidation proposal for education. In Volume I, when references are made to "administrative proposals for grants consolidation", these references do not relate to the specific proposal enacted by Congress through the budget reconciliation process in July 1981.

The collection of information for the development of the profiles described in Volume II continued through August 1981. The release of Volume I was precluded until Volume II had been compiled and produced.

To say the least, this study was conducted during a period of uncertainty among participants. Within this context, the study findings are presented.

Charles L. Blaschke
Project Director

August 1981

EXECUTIVE SUMMARY

OVERVIEW

Public Law 94-142 is a unique piece of education legislation. It is the first major education law which allows states to be treated differentially. Moreover, unlike other major Federal aid-to-education legislation, very detailed and rigorous regulations became effective shortly after passage; yet the amount of Federal fund allocations increased only slowly. And while the mandate of P.L. 94-142, buttressed by Section 504, is clear with no expiration limitation, the level of Federal appropriations (as opposed to authorization) is less certain. Unlike much of the education legislation passed during the 1960s, P.L. 94-142 specifies that the state education agency (SEA) bear the primary implementation responsibility for assuring that provisions are met at the local level. As a result, traditional models for assessing the implementation of education legislation are inadequate for policy formulation.

The U. S. Office of Education/Bureau of Education for the Handicapped (USOE/BEH), now the Office of Special Education (OSE), developed a multi-phase, multi-dimension plan for evaluating the impact of P.L. 94-142; the major focus in each of the studies was service delivery at the local education agency (LEA) level. Given the unique aspects of the Law, it would appear to be necessary and desirable to study the impact of P.L. 94-142 on SEAs. Indeed, under Section 618 of the Law, Congress mandated an analysis and evaluation of SEA practices and procedures.

The purpose of this study is to describe and analyze the impact of P.L. 94-142 upon SEAs, including descriptions of the contextual and other variables influencing the implementation process, the unforeseen and/or unintended consequences which have arisen at the SEA level, and the coping strategies used by SEAs. Unlike other studies which have focused upon the degree to which SEAs are in compliance, this study presents a description and analysis of implementation by SEAs in varying contextual settings. The existence of legal,

contextual, and other constraints could explain why certain Federal and Congressional expectations are not being met and identify the limits of Federal policy influence.

The two major objectives of the study are:

- To describe existing SEA organizational structures, administrative functions, and personnel staffing patterns for implementation of the Law.
- To describe and analyze the nature and extent of the impact of P.L. 94-142 over the last five years, including SEA implementation strategies, factors influencing the process, unintended effects, and coping strategies developed by SEAs.

APPROACH

These two study objectives were met through two separate but related project components:

- The development and analysis of a summary "profile" of SEA organization and administration in response to P.L. 94-142 in each state. (Copies of these profiles and analyses are provided in Volume II.)
- An in-depth study of the impact of P.L. 94-142 in selected states. Nine SEAs were selected on the basis of contextual dimensions relevant to policy concerns (e.g., "early" versus "late" implementors), as described later. After extensive documentation review and analysis, experienced senior level staff collected information on site, through informal, unstructured interviews. Data analysis and synthesis followed procedures similar to those used by TURNKEY in its previous study of the impact of the Law on LEAs (Blaschke, 1979).

SUMMARY OF FINDINGS

The most significant findings of the in-depth study of nine SEAs are summarized below, classified under principal categories: SEA strategies, general SEA impact, and Department of Special Education administrative impact.

Strategies Used by SEAs to Implement the Major Provisions of the Law

1. While strategies used by each of the SEAs varied, each was influenced by the existence of state laws, external advocacy groups, the state legislature, and the political culture of the state. The "early" implementors generally undertook a "proactive" strategy, while most of the "late" implementor states' strategies were "reactive" to various Federal, state, and other pressures.

2. The following patterns or steps were observed as existing in all states since the passage of P.L. 94-142:

   - Creation, refinement, or expansion of state regulations, which consumed a relatively larger portion of staff time and effort in the early implementor states;
   - Creation or major modification of due process and complaint hearing procedures, even though similar procedures were mandated in the Education Amendments of 1974;
   - Creation or modification of IEP regulation/mechanisms, particularly involving the nature and extent of parent participation;
   - High levels of staff time, effort, and activities related to the implementation of the SEA supervisory role, which has yet to be fully implemented in any of the states.

3. Key elements which significantly influenced the implementation process in all states included:

   - Umbrella-type advocacy organizations, especially during the passage of state laws and the early implementation of P.L. 94-142; in about half of the states "protection and advocacy" groups funded under developmental disabilities programs played a major monitoring role in subsequent implementation;
   - The 20 percent discretionary set-aside, which was viewed by all SEA respondents as the most significant Federal contribution to the implementation process; the flexible use of funds allowed SEAs to meet varying state needs, especially in late implementor states;

- Intermediate Education Units, which served as significant mechanisms for implementing the Law, particularly monitoring and enforcement functions as a "right arm" of the SEAs;

- State legislatures, which exercised major influence in the implementation process through appropriation of funds, state funding formula, and/or restrictions on SEA staffing and other functions.

Major Impact of P.L. 94-142
Upon SEAs Generally

1. The provision having the largest impact upon the SEA was the SEA supervisory provision. This provision not only conflicted with many state laws/constitutions, but also represented a serious deviation from traditional SEA roles. Attempts by SEAs to implement the provision resulted in a number of unintended or unforeseen consequences, including:

   - Withdrawal of services by other state agencies in several states;
   - Creation of formal paper agreements in all states with attendant interagency "turf battles" which impeded real progress;
   - Unprecedented delegation of responsibilities to the SEA (e.g., placement decisions for children who were receiving the majority of services from other state agencies);
   - The allocation of a relatively high proportion of SEA resources, time, and effort which were only marginally effective in implementing the provision;
   - The creation of unintended tensions within the SEA and between the SEA and other agencies.

2. The detailed regulations for P.L. 94-142 and other categorical programs, such as ESEA Title I, have over time "institutionalized" turf lines between administrators at the SEA level. The interface problems between categorical programs have been further compounded by a "linearity" of loyalty among administrators within categorical programs. Both factors have created management and coordination problems for high level SEA officials.

3. Within each state, the DSE has increased both in size of staff and in position within the SEA oganizational hierarchy.

Impact of P.L. 94-142 Upon
Administrative Functions of DSEs

1. Monitoring and enforcement units have been created in all states; increased staff time and other resources have been allocated to this function; however, increased emphasis on monitoring and enforcement has resulted in high DSE staff turnover in some states and in lower staff morale in all DSEs. Passage of the Education Amendments of 1978 (i.e., the SEA-wide monitoring and enforcement function) tended to pass around the "black hat" role among all SEA divisions.

2. Staff time and effort allocated to due process hearings and directly related matters has increased significantly over the last five years; in four of the nine DSEs a full-time lawyer has been hired.

3. The nature of staff time allocations for the application review has changed (e.g., less time to review IEU and LEA applications, but more time to review discretionary applications), although the total time allocated to this function has not changed proportionately over the last five years.

4. In all states, the numbers of professional staff within the DSEs have increased. In the early implementor states, the increase has ranged between 200 and 300 percent, some of which includes the reassignment of positions from other agencies; in the late implementor states, the increase has been between five and 60 percent.

5. While budgets within DSEs have generally increased proportionally to staff increases, some specific line items have increased dramatically, such as professional fees for hearing officers (e.g., from $2,000 to $100,000 over five years in one state).

DSEs have increasingly relied upon IEUs to perform SEA functions. In all but one state, SEA Title I offices have transferred administrative responsibilities of P.L. 89-313 to DSEs; in over half of the states, the DSE has also been given a portion of the ESEA Title I state administrative set-aside.

7. The discretionary set-aside has been used in each state to meet state priority needs. Most early implementor states have increased the targeted and/or untargeted "flow-through" of discretionary funds, while the late implementor states continue to use such funds for state-wide developmental and training purposes.

8. Most of the DSEs have used all of the five percent state administrative set-aside for the administration of the program at the state level; however, two states have not been allowed to use all of the five percent set-aside; rather they have "flowed through" up to two percent of these funds because of restrictions placed upon the DSE by higher level SEA officials and/or the state legislature.

9. A number of unintended consequences were observed: many were associated with the definition and funding of "related services". These consequences have contributed significantly to a general "backlash" against special education in each of the states in the sample.

10. DSE relations with OSE have become significantly more formal over the last two years, due to increased monitoring and enforcement emphasis at OSE and to "noise in the system" created by turnover of OSE state project officers and direct involvement by the Office for Civil Rights with individual LEAs in the states.

POLICY IMPLICATIONS/RECOMMENDATIONS

1. Implementation Has to be Viewed in the Context of Each State

Despite the unique and rigorous initial requirements of P.L. 94-142, SEAs have developed rational plans and strategies to implement the Law within the context of each state. Where conflicts between Federal law and state constitutions and laws surface and changes in the traditional roles of the SEA are required, major implementation problems are likely to arise. Moreover, where SEAs do not have the authority to implement specific provisions (e.g., the SEA supervisory provision), little progress can or should be expected.

2. Differential Treatment of SEAs is Necessary

Successful implementation of P.L. 94-142 required differential treatment of states by BEH. BEH also treated states differentially on an informal basis based upon their stage of development, particularly among late implementors. Formal requirements to have early implementors modify state regulations to coincide with detailed Federal regulations consumed a high level of SEA staff time and effort, even though the intent of state and Federal laws were very similar. Additional differential treatment could have reduced SEA staff time and costs.

3. The Discretionary Set-Aside is Critical

The 20 percent discretionary set-aside has been a critical factor in the implementation of the Law in all states. This finding, corroborated by the recent Rand Study (Thomas, 1981) has serious policy implications, in light of recent proposals for grants consolidation. The integrity of the discretionary set-aside should be maintained, in light of the changing needs of the states, particularly among late implementors.

4. The SEA Supervisory Provision Should be Changed

The SEA supervisory provision has not been fully implemented in any of the states. Discussions with SEA officials and observations indicate that implementation of that provision has progressed as much as one can expect. In early implementor states, a variety of unintended consequences, such as withdrawal of services, has occurred, while in late implementor states the provision has focused accountability upon the SEA, which for a variety of reasons does not have either the authority or the political clout to implement its responsibilities. Clearly, this provision is not working as Congress intended. Findings from this study strongly support a recommendation either to amend the Law or, to clarify through regulatory interpretive rulings, what SEA "supervision" means. One approach would be to develop an interpretive ruling relying upon Section 504 for enforcement. Based on Section 84.4(b)(4) of the 504 regulations, enforcement could be handled through the complaint procedures and a requirement that each state designate one of several state agencies, not necessarily the SEA, as having primary responsibility and accountability for providing education and related services to categories of handicapped clients who are similarly situated.

5. Federal Policy Influence is Limited by State Tradition and Law

A major policy implication of these findings highlights the limits of Federal policy. The SEA supervisory provision provides a clear opportunity for SEAs to usurp decision-making powers of LEAs; however, even in those SEAs which have a tradition of strong centralization, these "new responsibilities" have only grudgingly been accepted, if at all. The Education Amendments of 1978, which forced monitoring and enforcement roles on other SEA divisions, tended to reduce adverse implications within DSEs. Moreover, for those those states which do not have a tradition of monitoring, one should expect this function to evolve only gradually. This is particularly relevant at the present time as

the Administration's proposals would place greater monitoring and enforcement responsibilities upon SEAs.

6. State Level Conflicts Can be Attributed to Detailed Regulations More than to the Law

Many of the problems which have occurred and which have created impediments to the implementation of P.L. 94-142 were related to conflicts between regulations rather than between state laws and P.L. 94-142. Additional conflicts were created with other categorical programs, such as ESEA Title I as they interface with 48 state special education laws. As a result of this finding, one can legitimately question the need for detailed Federal regulations in programs which are mature and in which there exists the possibility that one child may be legitimately served under two or more categorical programs. General "loosening up" of regulations will probably result in LEAs adhering to the intent of the Law, while minimizing duplicative services, staff time, and other administrative anxieties and costs. Moreover, in those situations where a state law provision is a "mirror image" of a P.L. 94-142 provision, the SEA should be allowed to use its state's implementing regulations in lieu of the corresponding Federal regulations.

7. Uniform Implementation of "Related Services" Should Not be Expected

SEA attempts to implement the "related services" provisions have resulted in numerous, unforeseen consequences, many of which have contributed to a general backlash against special education. While the states' definitions of related services (and the "mandatory" nature of this provision) vary, the levels of related services are largely influenced by state contextual variables, such as levels of state funds appropriation. Given these differences among states, it is unrealistic to expect uniform implementation of recent interpretive rulings on related services. Indeed, one might anticipate that any attempt by OSE to define and uniformly implement related services

provisions could further increase the opposition to special education within the states.

8. Several Initiatives by OSE and SEAs Could Reduce the Need for Unnecessary Formal Relations

Relations between SEAs and OSE have increasingly become more formal, which can be expected as a Federal aid-to-education program involving various governmental levels matures. In a number of states, the reasons for formalization can be attributed to factors over which OSE and the states have some control. In order to minimize unnecessary, time consuming formal procedures and documentation, a number of suggestions are offered:

- A concerted effort should be undertaken by OSE to minimize turnover of "lead department representatives" and other officials responsible for specific functions in the various states;
- The "lead department representatives" should have a clear understanding of their roles and the expectations held of them by OSE officials;
- Any individual having primary responsibility for monitoring, enforcement, and general oversight over an SEA should be oriented in-depth about the context in which the SEA operates in the state and particularly the manner in which P.L. 94-142 is being implemented. Assignment to individuals of primary responsibilities over states should minimize potential personality conflicts (e.g., by not assigning a former SEA official to a Federal oversight position of that SEA);
- Technical assistance should be provided to individual SEAs on request or when potential compliance problems surface to ensure that problems are resolved jointly and quickly.

In several instances, states can take initiatives to minimize conflicts which create unnecessary paperwork and other formalities. These include:

- The annual program plan (or three-year application) submitted to OSE should provide information which explains the context in which problems associated with implementation of specific provisions;
- While continuing to follow formal procedures and communications with OSE, individual SEAs should continue to maintain informal and indirect

communication linkages to OSE through NASDSE and other representative groups and associations.

I. INTRODUCTION

A. BACKGROUND OF STUDY

1. Evolution of Public Law 94-142

a. General

The dramatic increase, during the 1970s, in Federal attention to the problems of education of the handicapped can be traced to two sources: "right-to-education" litigation and state legislation.

The first right-to-education lawsuit was brought by a group of parents of mentally retarded children against the Commonwealth of Pennsylvania as a class action (Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 343 F. Supp. 279 (E.D. Pa. 1972)). The resulting consent decree (commonly referred to as the PARC decree) stated that the state could not deny free public education to mentally retarded children (who were allegedly "incapable of benefiting" from instruction, according to the challenged statute), if it provided such education to non-handicaped children. This "right to education" was extended to all handicapped children shortly thereafter by a Federal district court decision in Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (D.D.C. 1972).

This litigation paralleled legislative action at the state level. By 1972, over 30 states had adopted legislation requiring the education of handicaped children (as defined by individual state policies). By 1975, all but two of the states had passed (but not necessarily implemented) such mandatory legislation; 37 of these 48 states have passed such laws since 1970.

Perhaps the most comprehensive of these laws is the Massachusetts Comprehensive Special Education Act, Chapter 766, which was passed in 1972 and went into effect in September, 1974. Chapter 766 sought to provide, at public

expense, a "flexible and uniform system of special education opportunities for all children requiring special education", regardless of their handicaps, at public expense. The law further required the integration of special children into regular classrooms, parent involvement, due process in evaluation and placement procedures, and the development of an individual plan for each child's education.

Federal commitment to the education of the handicapped is largely a product of the 1960s and 1970s. Although P.L. 94-142, the Education for All Handicapped Children Act, was passed in 1975, most of its features can be found in earlier Federal legislation and court decisions. The Elementary and Secondary Education Act (ESEA), passed in 1965, has been amended several times to extend its coverage to the handicapped. Congress passed the Rehabilitation Act of 1973 (P.L. 93-112) which covers the severely handicapped, and requires that clients take a greater role in determining their programs. The Education of the Handicapped Act (P.L. 91-230), passed in 1970, was extended by the Education Amendments of 1974 (P.L. 93-380), which contained many elements that were strengthened and amended by P.L. 94-142: due process, nondiscriminatory testing, least restrictive environment, priority to handicapped children not receiving an education, child identification, and confidentiality. P.L. 94-142 further provides for an Individualized Education Program (IEP) for each handicapped child, a feature adopted from Massachusetts' Chapter 766. Title VIII, Section 801 of P.L. 93-380, states that "the Congress ... declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers". P.L. 94-142 is thus not a <u>new</u> law but rather consolidates many provisions of other laws. It reaffirms the right to education as a basic civil right of all citizens.

b. Role of States

P.L. 94-142 imposes significant requirements on the states: it mandated that the states must provide a "free appropriate public education" for all handicapped children ages three to 18 by September 1, 1978, and ages three to

21 by September 1, 1980 unless a prior plan calls for an extended date. The states must first assure an education for those handicapped children receiving no services (Priority One Children); it must then upgrade the education of those handicapped children who are "inadequately" served (Priority Two Children). The State Education Agency (SEA) supervisory provision places a new role upon the SEA -- authority over the services and/or programs provided by other state agencies. The states are responsible for determining LEA eligibility to receive funds under P.L. 94-142, for guaranteeing nondiscriminatory testing of children, and for ensuring due process for both children and their parents. The resources necessary to meet all of these requirements were not available initially. In many states, implementation of the Law required an increase in state and local funds to provide services that did not exist. Funding under P.L. 94-142 (Section 618) has escalated over a five-year period. For the first year of implementation, states and local agencies are required to bear most of the additional costs associated with the Law.

2. Rationale for the Study

OSE/ED (formerly USOE/BEH) has developed a multi-phase, multi-dimension plan for evaluating the impact of P.L. 94-142, the major focus in each of the studies was the service delivery level and, for the most part, the local education agency (LEA). These studies are summarized in Appendix A. Given the unique aspects of the Law, it would appear to be critical from both a policy and disciplinary research perspective for OSE officials to study the impact of P.L. 94-142 on SEAs.

The overall purpose of this study is to describe and analyze the impact of P.L. 94-142 on State Education Agencies which vary in their relative stages of development, capacities to implement the Law, and in other contextual situations. The primary focus is on the strategies selected by the SEAs to implement the major provisions, the contextual and other variables influencing this selection, the impact of these provisions upon the SEAs generally and upon the Divisions of Special Education (DSEs), the occurrence of unforeseen or

unintended consequences, and the coping strategies undertaken by SEAs in light of various political and other constraints. The rationale for the study is based upon two considerations: (a) its direct utility to policy makers, particularly at the Federal level; and (b) the significant contribution to be made to the meager stockpile of disciplinary research on the implementation of Federal aid to education legislation.

a. Direct Utility for Policy Makers

The policy research needs of OSE are based generally upon two requirements: (1) to conduct studies and submit an Annual Report to Congress as mandated in Section 618 of the Law; and (2) to administer the implementation of the Law in a manner consistent with its provisions and the objectives of OSE. While these requirements are in many instances interrelated, both provide a framework for developing the study rationale.

(1) Congressional Mandate

Under Section 618 of the Law, the Commissioner " ... shall measure and evaluate the impact of the program authorized under this part and the effectiveness of state efforts to assure the free, appropriate public education of all handicapped children". In addition, the Commissioner is required to transmit to the appropriate committees of the House a report on the progress being made toward the implementation of the Law, including " ... an analysis and evaluation of the effectiveness of procedures undertaken by each state education agency ... to assure that handicapped children receive special education and related services ..."

Furthermore, a review of the legislative history of P.L. 94-142 makes it clear that Congress implied that "effectiveness" is a relative term -- relative to SEA capacity to implement the major provisions of the Law. The studies and reviews conducted by BEH/DAS have focused primarily on compliance issues (i.e., the degree to which SEAs are complying with the Law's major provisions). This study was designed, not only to analyze the relative effectiveness of SEA

strategies, but also to identify the contextual and other factors which influence SEA decisions and strategies. This study should contribute to a knowledge base for Congress in its consideration of legislative changes in P.L. 94-142 and in its assessment of the feasibility and practicality of incorporating features of P.L. 94-142 into other major pieces of legislation.

(2) Internal Policy Issues

Any unit within a Federal agency responsible for administering implemention of legislation is confronted with myriad problems and issues, ranging from budget justification to ensuring administrative efficiency. The problems confronted by OSE include many sensitive issues inherent in the Law. The Law mandates that OSE provide technical assistance to SEAs to assist in the implementation. However, unlike other major Federal programs such as ESEA Title I where a separate division (ED/OPE) is responsible for assessing the impact of the program, OSE is also responsible for evaluating the performance of those to whom it provides technical assistance. While there are certain advantages to such an administrative structure (e.g., immediacy of feedback), there also exist extreme sensitivities in maintaining cooperation between the two governmental levels. OSE is, in addition to its administrative responsibilities, in a unique policy-making role through its discretion in treating states regarding issues such as waivers. Moreover, due to this unique legislation and its departure from previous patterns of Federal aid to education, OSE needs a "knowledge base" on which to estimate the implications of its decisions. This project was designed to address, to the extent possible, some of these sensitive issues, while at the same time to provide a knowledge base for decision making.

A number of concerns related to the above policy issues have already arisen. Below we note a number of these issues for illustrative purposes.

First, one of the major provisions of the Law allows states to use Federal funds to supplant state or local funds when and if the SEA assures that all children needing services are being provided services and a waiver request is

approved by the Commissioner. Indeed, one state (Massachusetts) formally requested a waiver; after administrative hearings, the waiver request was turned down. Undoubtedly, BEH officials were confronted with a dilemma: (a) what criteria and standards are to be used to determine and monitor whether all handicapped children within a state are being adequately served? and (b) if a waiver is granted to one state without clear standards by which to assess requests from other states, might not other SEAs also request waivers creating political difficulties which could result in pressures by and on Congress to reduce appropriations for P.L. 94-142 in subsequent years?

Second, identified as one of the major implementation problems at the SEA level by the IEL "consortium study" (Boston, 1978), the SEA "supervisory role" appears to be emerging as a major policy concern. In some states, participants at the IEL conferences argued the SEA supervisory role provision was in direct conflict with their state constitution. Participants argued that P.L. 94-142 would "work a political hardship in many states because it does not seem to take into account the kinds of administrative and political arrangements that enable a state government to function smoothly" (Boston, 1978). Indeed, a recent TURNKEY study for NCSL on this topic did indeed indicate that, at least in the short run, interagency coordination at the service delivery level eroded as the coordination procedures increasingly became formalized (Blaschke, 1978). While the constitutional question does emerge in a number of states and in virtually all states political turf battles of one kind or another will arise, the heart of the question appears to be how individual SEAs are coping with the dilemma and under what conditions do what procedures appear to work best (e.g., the creation of a formal interagency coordinating committee in one state, informal memoranda of agreement in another). Does the traditional role of the SEA tend to explain the nature of the mechanisms and the extent which patterns emerge? Can they be attributed to contextual variables, legal environments, traditional roles of state agencies in the state, or other factors? Insights into these and other questions could provide a basis for administrative policy related to interagency coordination and the realistic expectations of SEA progress within the context of the state.

Third, the interface between P.L. 94-142 and other categorical programs (e.g., ESEA Title I) is an emerging issue at the state level which will increasingly have policy implications at the Federal level. The interface with ESEA Title I is illustrative of a complex, and somewhat new, problem for which SEA coping strategies are rather unclear. The fundamental issue here is who pays for what services to students who are handicapped and who are also eligible to participate in Title I programs. Under ESEA Title I, as amended in 1978 and resulting draft ESEA Title I regulations, the "required by law" test for "supplement not supplant" provisions places relatively high financial responsibilities upon states with "comprehensive" state special education legislation. In one such state, the issue of who pays for services for "slow learners" became so great that a separate state appropriation was utilized solely to serve these chidren. In the absence of joint Federal guidance (and perhaps even with it), SEA legislation and regulations affecting state-supported or administered categorical programs continue to have an impact on the uniformity of implementation of P.L. 94-142 and other categorical programs with which it interfaces. This study attempts to identify important Federal and state legislation and guidelines which interface with P.L. 94-142 and the problems created for SEAs in different contexts.

All of the above issues have serious implication for "grants consolidation" which was proposed by the Reagan administration after this study began. Several findings from this study provide evidence supporting the need for some alternatives to the present categorical nature for Federal aid-to-education programs.

(b) Disciplinary Research

In addition to the direct "policy research" justifications, there exists a "disciplinary research" rationale for supporting the project. P.L. 94-142 is unique in many respects, representing a radical departure from previous patterns of Federal aid to education and could provide a model for future education legislation.

Most of the Federal aid-to-education legislation passed during the 1960s and early 1970s (ESEA Title I, Title III, and others) can be attributed to reformers within the Federal bureaucracy rather than grassroots pressures from constituencies at the local and state levels. The initial support for P.L. 94-142 on the other hand has been traced to local and state advocacy groups.

In addition, the pattern of implementation of P.L. 94-142 is radically different from virtually all other pieces of education legislation. In Title I, for example, the major function of USOE was to distribute formula funds as expeditiously as possible to the operational level. Only four or five years later did the question of enforcement result in a tightening of the regulations. On the other hand, P.L. 94-142 prescribes a specific monitoring and enforcement role initially for Federal and SEA levels following the rigid set of regulations published shortly after the passage of the Law. Moreover, unlike Title I, the Federal appropriations supporting the implementation increase slowly from a small base (e.g., five percent of average per-pupil cost). SEAs and LEAs had to provide their own resources during the initial phase of implementation with uncertainty that Congress would appropriate the funds in accordance with the annual planned authorizations.

As implied above, the SEA is in a new role acting in some respects as a "fulcrum for Federal leverage" during the implementation process. The traditional role of SEAs, technical assistance to LEAs, has changed dramatically as it becomes a monitoring and enforcement agency to ensure LEA compliance. Under the supervisory role provision, the SEA powers are greatly enhanced. While the SEA is cast in the role of a monitor of LEAs, the sanctions which can be brought to bear upon an SEA from the Federal level includes those, not only of P.L. 94-142, but also those of Section 504 of the Rehabilitation Act.

Some of these unique features of P.L. 94-142 have been advocated for several years by scholars on the subject of implementation of Federal aid to education. Both Kirst (1972) and Murphy (1971, 1973) have presented logical and rational arguments for differential treatment of states. These and other

scholars such as Mosher, Pincus, and Rivlin, as well as a number of high-level government officials have argued for the use of incentives rather than sanctions to encourage SEAs and LEAs to implement legislation as intended. Moreover, during the recent debate on the Education Amendments of 1978, a number of individuals testifying before the Congress identified the lack of incentives or the existence of disincentives as a factor contributing to unintended effects in programs such as Title I (e.g., mainstream versus pullout programs).

In light of the unique aspects of P.L. 94-142, its implementation process, and the heightened interest of the Congress to incorporate aspects of it into other education legislation, a study of this nature would appear to be extremely relevant and timely.

In the next section we summarize the project objectives, the study questions, the conceptual framework for analysis, and the procedural approach taken.

B. PURPOSE OF PROJECT AND STUDY OBJECTIVES

The purpose of this project is to describe and analyze the implementation of P.L. 94-142 at the SEA level. Two separate but interrelated sets of activities were undertaken to address this general objective.

1. In-Depth Impact Study

a. Study Questions

The first component of the project was an in-depth study of the impact of P.L. 94-142 upon nine SEAs. The major study questions included:

- What types of strategies were used by SEAs to implement the major provisions of P.L. 94-142; what, if any, state contextual or other characteristics were common among states following similar strategies?

- What were the major steps or activities undertaken by SEAs to implement major provisions of the Law; to what extent do patterns exist among those states which were in different stages of development when P.L. 94-142 was passed (e.g., early versus late implementors) or among other state contextual differences?

- What factors or critical elements contributed to the successful implementation of P.L. 94-142 and why?

- What was the major impact of P.L. 94-142 upon SEAs generally and specifically upon the Divisions of Special Education (DSE), with a particular focus upon:

  - Organization;

  - Administrative functions;

  - Staffing patterns;

  - Budget and resource allocation;

  - Relations with other agencies and other SEA divisions;

  - Relations with external advocacy and other groups;

  - Relations with Federal and local education agencies?

- To what extent did unintended or unforeseen consequences arise at the SEA level during the implementation process; to what extent did anticipated negative consequences or effects fail to materialize and why?

- What types of exemplary coping strategies were developed by SEAs to cope with unintended consequences or to implement specific provisions?

Below we describe the conceptual framework for analysis and the specific approach which was undertaken.

b. Conceptual Framework

The framework for studying the impact of P.L. 94-142 at the state level was an implementation model originally developed for the TURNKEY studies of the implementation of that Law at the local level (Blaschke, 1979, see Appendix B). The focus of that study, and hence of the model, was on the LEA. A modified

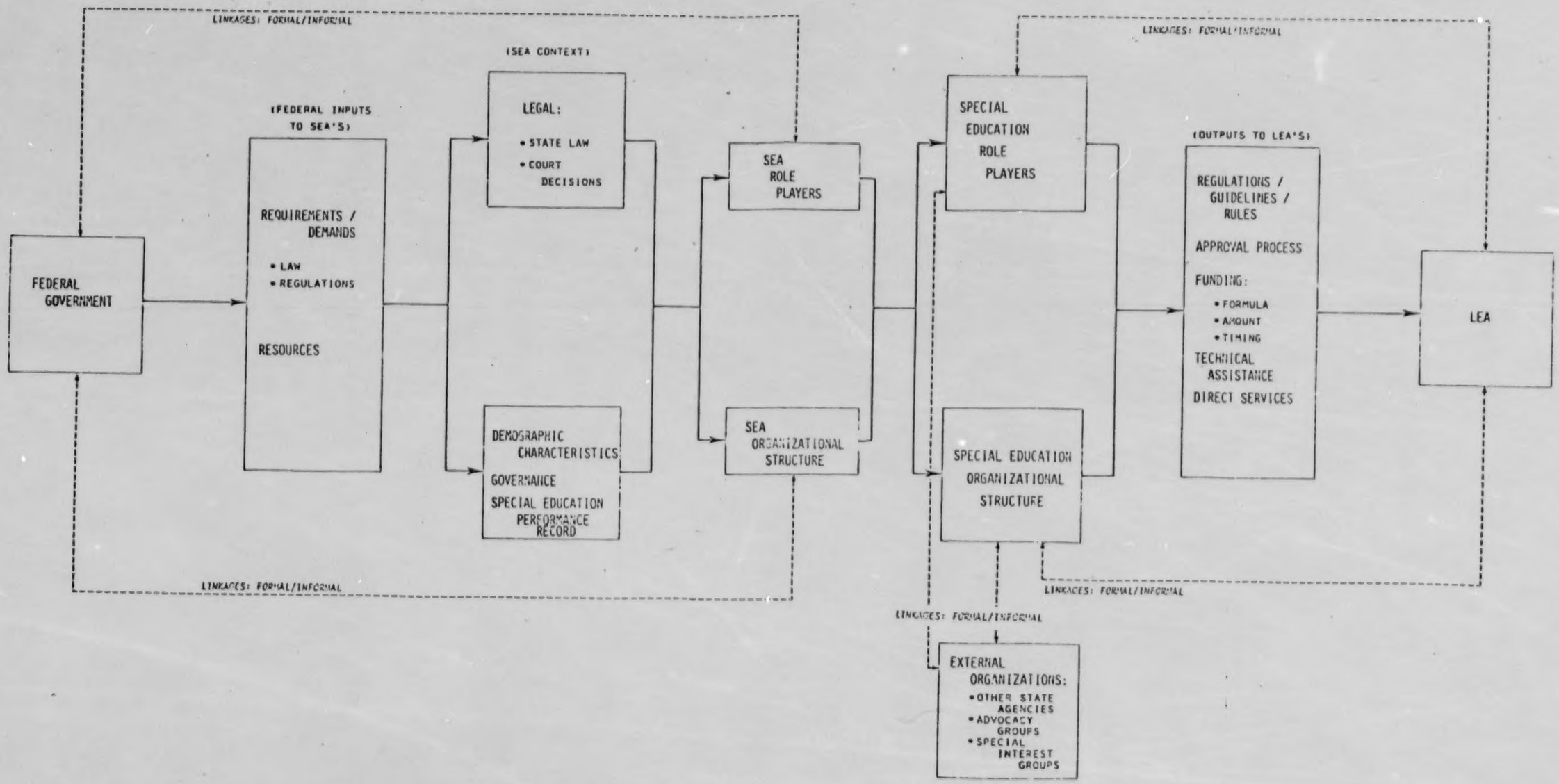
version of the SEA component of the model, which was used in this study is presented in Exhibit 1.

As depicted by this schematic, the Federal government has two major types of inputs to the states: demands and resources. The demands include the Law (P.L. 94-142) and the various sets of regulations that have been promulgated to implement the Law. The resources include funding under P.L. 94-142 and technical assistance, as well as general support to the states in their efforts to implement the Law.

There are a number of provisions in P.L. 94-142 that must be adhered to by the states. These include:

- assurance of extensive child identification procedures;
- assurance of the "full service" goal and a detailed timetable;
- guarantee of complete due process procedures;
- assurance of regular parent or guardian consultation;
- maintenance of programs and procedures for comprehensive personnel development, including in-service training;
- assurance that special education will be provided to all handicapped children in the least restrictive environment;
- assurance of nondiscriminatory testing and evaluation;
- guarantee of policies and procedures to protect the confidentiality of data and information;
- assurance of the development of an Individualized Education Program for each handicapped child;
- assurance of an effective policy guaranteeing the right of all handicapped children to a free appropriate public education, at no cost to parents or guardians; and
- assurance of a surrogate to act for any child when parents or guardian are either unknown or unavailable, or when said child is a legal ward of the state.

IMPLEMENTATION MODEL EXPANDED AT THE SEA LEVEL



Each state must submit to OSE an Annual Program Plan (subsequently, a three-year plan) that contains assurances that the state is following policies and procedures that will guarantee to each handicapped child a free appropriate public education. These plans must be approved before the states can receive funding under the Law. The elements of this plan are:

- a description of the extent and method of informing the general public concerning the Annual Program Plan;
- assurance to the Secretary of Education that the state will follow a policy that ensures all handicapped children the right to a free appropriate public education;
- reaffirmation of the goal of providing education to handicapped children and a timetable and statistical information on services;
- a description of the policies and procedures for identifying, locating, and evaluating every child in need of special education;
- a description of policies and procedures for implementing the requirement that each child shall have a written Individualized Education Program;
- a description of policies concerning procedural safeguards;
- reaffirmation of a commitment to the principle of appropriate placement of handicapped children;
- reaffirmation of a commitment to nondiscriminatory assessment;
- a description of a comprehensve system for personnel development that outlines anticipated personnel development activities;
- assurance of compliance with P.L. 94-142 with respect to handicapped children enrolled in private schools;
- assurance that handicapped children in private schools may receive assistance when such children are placed in or referred to private schools as a means of carrying out public policy;
- assurance that the state shall seek to recover any funds made available under P.L. 94-142 for services to any child erroneously classified as eligible to be counted under the Law;
- assurance that, in the event of pending disapproval of an LEA application, the LEA will be given reasonable notice and opportunity for a hearing with the state board of education;

- a description of evaluation and monitoring procedures to be followed by the state with respect to activities required by this Law; and
- an optional preschool incentive grant application.

The amount of funding to the states is to increase each year, according to a formula detailed in the legislation. There is thus the paradoxical situation of a great demand on states during the early years of implementation of the Law, but inadequate resources to help them comply; uncertainty for future funding further complicates the issue (Blaschke, 1976).

Many contextual variables will influence how a state implements P.L. 94-142: the state's law for special education, its implementation strategy and date, the general demographic characteristics of the state, the governance of the state and of education in the state (Campbell and Mazzoni, 1974), and the state's special education performance record. Van Meter and Van Horn (1975) have noted that economic, social, and political conditions "may have a profound effect on the performance of implementing agencies", although "the impact of these factors on the implementation of policy decisions has received little attention".

The special education function has been separated from the rest of the SEA in the modified version of the model presented in Exhibit 1. The general SEA role players and organizational structure influence the special education role players and organizational structure. Role players in both the SEA generally and the special education unit in particular have different needs, preferences (when discretion is allowed), affiliations, and levels of professionalism. Their behavior is affected by subordinate bureaucratic tendencies and by superordinate leadership and management (Milstein, 1976 and Briggs, 1973).

Professional affiliations, especially in special education, are one of the factors influencing the informal linkages that are established within the SEA, between the SEA and the Federal government, and between the SEA and other state agencies. Affiliations in special education tend to be along substantive

(e.g., speech therapy, learning disabilities) rather than functional lines. The coalitions that emerge will have a great impact on bargaining for resources both within the SEA and among other state agencies, such as described by Murphy (1974) for ESEA Title V (i.e., resources will be used to "grease the squeaky wheel").

The organizational structure of both the SEA in general and the Division of Special Education in particular will have a profound effect on how a state implements P.L. 94-142. The concept of "loose coupling" (Weick, 1976) is a useful one to describe the relationships among the units of the SEA: "Loose coupling ... suggests that (1) each organization has its own problems, perspectives, and purposes that reflect its particular structure and culture, and (2) each organization acts more or less autonomously within the overall macro-structure of the sector" (Berman, 1979, p. 165). This can also be extended to include the relationships between the DSE and various other state agencies that provide services to the handicapped.

Another component of "organizational structure" is the institutional setting in which implementation takes place. Elmore 1980 suggests four distinct (but not necessarily mutually exclusive) models for viewing organizational approaches to implementation:

- a systems management model, which treats organizations as value maximizing units and views implementation as an ordered, goal-directed activity;
- a bureaucratic process model, which emphasizes the roles of discretion and routine in organizational behavior and views implementation as a process of continually controlling discretion and changing routine; important in this model is the concept of a "street-level bureaucracy" (Lipsky, 1977);
- an organizational development model, which treats the needs of individuals for participation as paramount and views implementation as a process in which implementors shape policies and claim them as their own; and
- a conflict and bargaining model, which treats organizations as arenas of conflict and views implementation as a bargaining process in which

the participants converge on temporary solutions but no stable result is ever reached.

Each of these models will lead to different kinds of relationships among agencies and subagencies within the concept of loose coupling, to different kinds of decision making, to different forms of control, etc.

Mention has been made above about other state agencies. In the implementation model these agencies are included in the more general category of external organizations, which also includes advocacy groups and special interest groups. The linkages between the special education unit and these agencies have a great effect on the delivery of services to the handicapped. For example, many states have for years operated on the basis of an informal network among the various agencies. P.L. 94-142, however, has forced the formalization of these linkages, with not altogether positive results. "Turf battles" may for a time lead to an actual reduction in services to the handicapped (Bleschke, 1978 and 1976).

c. Summary of Approach Taken

(1) Sample Selection

The sampling plan for the in-depth impact study reflected a number of concerns.

First, as several of the study questions attempted to identify patterns among those states to be classified as "early implementors" or "late implementors", we included as a primary sampling dimension the "effective date of implementation". All states were classified according to their "effective date of implementation" based upon information provided in the initial NASDSE SEA profiles (NASDSE, 1977) and the information collected through document review, discussions with knowledgeable individuals (such as NASDSE), and preliminary discussions with a number of state officials. The criterion for distinguishing early versus late implementors were as follows: (a) the state

law, which was a "mirror image" of P.L. 94-142, was passed prior to the passage of P.L. 94-142; (b) the implementation of the state law was uniform throughout the state, rather than a staged implementation process (e.g., pilot implementation in a certain percentage of districts each year); (c) the relative increase of state and local expenditures in special education had been relatively great prior to 1975; and (d) many critical mechanisms to implement the major provisions of P.L. 94-142 were generally in place within the state on a uniform basis prior to the passage of P.L. 94-142. Five states were classified as early implementors, while the remaining states, which did not meet the above criteria, were classified as late implementors. The underlying hypothesis was that the early implementor states would have less difficulty in implementing P.L. 94-142.

Second, because of the pivotal role of the SEA in implementing the Law, we wanted to ensure representation within the sample of states which were classified as having high or low degrees of centralized power and decision making (vis-a-vis LEAs). We relied upon the "Wirt index" for ranking all SEAs according to the degree of centralized powers within the SEA. The Wirt index ranks states along seven points in a continuum, including:

- absence of state authority (0);
- permissive local autonomy (1);
- required local autonomy (2);
- extensive local option under state-mandated requirements (3);
- limited local option under state-mandated requirements (4);
- no local option under state-mandated requirements (5); and
- total state assumption (6).

The index of zero to six for each state was applied to a variety of functions, such as accreditation, certification, etc., which were either highly or lowly centralized within the SEA. In the final sample, three early implementor

states were classified as high centralization, while three late implementor states were classified as low centralization.

Third, beyond these two dimensions the plan also called for some representation of other considerations, such as the number of LEAs within the state, the existence of intermediate units, geographic dispersion, per-pupil expenditures, percent of student enrollment identified as receiving special education services, ethnicity, and percent of Federal contributions to total per-pupil expenditures within the state. In addition to the above dimensions and considerations, because of significantly reduced project budget, logistical and other cost considerations were taken into account prior to making the final sample selection. A summary of the sample dimensions are displayed in Exhibit 2 and described in Appendix C.

Once the priority states within the four general sampling cells were identified, SEA officials were contacted to confirm specific dimensions and to obtain agreement to participate in this study.

(2) Information Collection

Following a case study approach, information collection consisted of two primary activities: (a) document collection through various sources; and (b) on-site interviews and telephone follow-up with SEA officials and other respondents.

The document collection process consisted of several steps. First, all related studies which could be identified and were accessible were collected for review in refining the major study questions and providing insights into the sample selection process. Second, an extensive review of documents available through NASDSE was conducted -- particularly reports available through NASDSE, back-up information, and documentation provided to NASDSE by SEAs. Third, after all attempts to gather documents from other sources had been exhausted, a request was then made of SEAs to send specific documents to the project team.

STATE	VARIABLES									
	1	2	3	4	5	6	7	8	9	10
A	H	L	ISD	H	M	M	W	ELECT	2	10-48-41
B	H	E	ISD	L	M	L	C	APP/GOV	2	5-38-57
C	L	L	C	L	L	H	SE	ELECT	1	17-46-27
D	L	E	C	L	M	M	M-AT	APP/SB	2	6-40-54
E	L	E	ISD	H	H	H	NE	APP/SB	0	4-24-72
F	H	E	ISD	M	M	L	SC	APP/SB	2	4-52-44
G	H	E	ISD	H	H	L	SE	APP/SB	3	5-40-55
H	L	L	ISD	M	L	H	SE	APP/GOV	1	11-53-35
I	L	L	ISD	H	L	H	SW	APP/SB	4	10-50-39

Variables

1. School Centralization; F. M. Wirt, School policy culture and state decentralization, in J. D. Scribner, ed., The Politics of Education, 76th Yearbook of the National Society for the Study of Education, Part II (Chicago: University of Chicago Press, 1977). Legend: H = High Score; L = Low Score.

2. Early/Late Implementation of Special Education Law; Education TURNKEY Systems, Inc. (see text). Legend: L = Late Implementor; E = Early Implementor.

3. Type of Local Education Agencies in State: Education TURNKEY Systems, Inc. Legend: ISD = Independent School District; C = County.

4. Number of Local Education Agencies in State; National Center for Education Statistics, Education Directory: Public School Systems, 1976-77. Legend: H = High; M = Medium; L = Low.

5. Per Pupil Expenditures Based on Average Daily Attendance, 1976; National Center for Education Statistics, Digest of Education Statistics, 1976 Edition. Legend: H = High; M = Medium; L = Low.

6. Number of Handicapped Pupils as a Percent of Pupil School Enrollment 1977; W. H. Wilken and D. O. Porter, State Aid for Special Education: Who Benefits?, National Institute of Education, 1977; U. S. Office of Education, Bureau of Education for the Handicapped, Data Notes, September 1977. Legend: H = High; M = Medium; L = Low.

7. Geographical Region of the United States; Education TURNKEY Systems, Inc. Legend: N = North; S = South; E = East; W = West; C = Central; M-AT = Mid-Atlantic.

8. Chief State School Officer position by Election or Appointment; National Association of State Directors of Special Education, State Special Education Profile Data, 1980. Legend: APP/SB = Appointment by School Board; APP/GOV = Appointment by Governor; ELECT = Elected.

9. Number of Administrative Levels between the highest special education administrator and the state superintendent of schools; National Association of State Directors of Special Education, State Special Education Profile Data, 1980.

10. Sources of Education Revenues as Percent of Total, (Federal, State, Local); Congressional Budget Office.

In Exhibit 3 we specify the documents which were received and logged into the documentation system for each of the nine states. The most useful documents for this study included:

- SEA Annual Program Plans;
- SEA rules, regulations, and guidelines;
- Copies of internal memoranda within the SEA and between the SEA and the other two levels of government;
- SEA budget documents;
- Program Administrative Review (PAR) reports prepared by OSE;
- Other reports prepared by OSE; and
- Documents contained in state files at OSE.

The interviews were conducted with a variety of SEA officials and other state-level officials and/or individuals who were knowledgeable about or affected by the implementation of P.L. 94-142. In Exhibit 3, the various types of respondents who participated in this study are also enumerated. Detailed personal interviews were conducted by high-level senior project staff with SEA Directors of Special Education. On-site interviews were conducted with all key DSE staff officials. In all states, one or more officials knowledgeable about or responsible for general SEA administrative activities were also interviewed.

Interviews followed a protocol developed for the project. In cases where the DSE staff was relatively large or compartmentalized, only relevant portions of the protocol were followed. For each of the major study issues, at least two respondents provided information. All interviews with SEA and other state-level officials were conducted by the Project Director or another senior staff person, both of whom were extremely knowledgeable about P.L. 94-142 and its general impact upon LEAs and SEAs, and who have had over 30 years collective experience in dealing with SEAs.

INTERVIEWS

Exhibit 3

STATE	VARIABLES							
	1	2	3	4	5	6	7	8
A	D	D	5	2	0	1	SPO	22
B	D	D	4	C,1	0		SPO	7
C	1	D	5	3	0	1	SPO	25
D	D,2	D^3	12	2	0	3	SPO	23
E	D,1	D^2	4	3	0	0	SPO	42
F	D	D	5	C^3,6	1		SPO	22
G	0	D	4	1	0	0	SPO	96
H	1	D	4	C,1	4	1	SPO	36
I	1	D	6	2	1	0	SPO	34

Variables

1. Number of State Department of Special Education Staff interviewed at National Association of State Directors of Special Education conference held October 1980. Legend: D = Director of Special Education; Numbers = Other Staff.

2. Interviews held on site with State Directors of Special Education. Legend: D = Director of Special Education; Numbers = More than one meeting.

3. Number of Interviews held on site with Staff of State Department of Special Education.

4. Number of Interviews held on site with Staff at State Education Agency. Legend: C = Chief State School Officer; Numbers = Other Staff.

5. Number of Interviews held on site in Legislative Offices.

6. Number of Interviews held on site in Other Related Offices.

7. Interviews held on site with Staff of Bureau of Education for the Handicapped. Legend: SPO = State Project Officer.

8. Number of Documents Obtained and Reviewed by Education TURNKEY Systems, Inc. Staff.

(3) Analysis and Synthesis

A number of steps were followed in the data analysis and synthesis for the impact study. First, all information collected for the study was logged into the project documentation system designed specifically for this project.

Second, a "state working document" was developed for each state for the purpose of data reduction. When inconsistencies between interview notes and official documents arose, attempts were made to verify information provided by the various sources. For the most part, this was done in consultation with knowledgeable officials within the SEA and/or NASDSE or OSE staff. In some instances it required rather extensive follow-up with SEA officials or more detailed documentation review.

Third, once the information was collected and reduced to the state working document, the analysis began. The first analysis attempted to identify areas of impact, unintended consequences, etc. across all states. Then a subsequent analysis attempted to identify patterns among categories of states. The methodological approach followed here was very similar to that followed by members of the project team in conducting the data synthesis and analysis for the study of the impact of P.L. 94-142 upon LEAs (Blaschke, 1979).

2. Develop SEA Profiles

The second component of this project consisted of a number of activities, many of which were related to the first component. In order to develop general information about the impact of P.L. 94-142, an individual profile was prepared for each state, with primary focus upon SEA organization, administration, and related activities. The profiles developed for this project relied heavily upon a recent effort conducted by NASDSE to update the "NASDSE SEA Profiles", which were first developed in 1976. The primary focus of the profiles included the elements described in Exhibit 4.

Exhibit 4

CONTENT OUTLINE FOR STATE PROFILE

A. Summary of State's Legal Framework
   1) State Law and Regulations (1-3)
   2) Relationship to P.L. 94-142 (4,5)

B. Organizational Structure of SEA
   1) General (38, 39)
   2) Special Education (70-73)
      a) Organization
      b) Staff and Staffing Pattern (74-79)

C. Administrative Functions of SEA in Special Education
   1) Training and Technical Assistance (30-31)
   2) Monitoring/Enforcement (56-58)
   3) Dissemination and Reporting (23-25)
   4) Certification (43-55)
   5) Due Process Hearing Procedures (6-8)
   6) State Supervision
      a) Non-Public Schools (9-11)
      b) Interagency Agreements (12)
   7) Direct Services

D. Special Education Funding
   1) State Formulas (13-15)
   2) State Funding Level (16-21)

E. Special Education Program
   1) Student Characteristics
      a) Number by condition (22)
      b) Number by enrollment (26)
   2) Provider Characteristics (26, 28-29, 32-36)

In order to verify major impact findings from the in-depth impact study, descriptive statistics of two general types were developed. The first analysis relied on the "self-reported" NASDSE update forms to conduct descriptive trend analysis, for the most part using the base year 1976-77 in comparison to 1980-81. Of primary interest were changes in staff positions and vacancies, administrative functions (e.g., regulatory versus training and technical assistance), etc. A second descriptive analysis was conducted primarily to corroborate, where possible, patterns among categories of states, such as "early" versus "late implementors".

The draft instruments used by NASDSE to update the profiles were reviewed to ensure that primary areas of interest to this study were also included. Only slight modifications were necessary. The NASDSE requests for information (which was made prior to contract award for this project) began in September 1980. Follow-up requests for information were made on an as-needed basis by NASDSE staff. Responses by those SEAs involved in the in-depth impact study were extremely useful in refining protocols for on-site interviews.

As updated NASDSE SEA profiles were received, members of the project team reviewed the data for accuracy, identifying errors for which additional follow-up was required. As SEA profiles were accurately completed and received, elements of concern to this project were logged into the project documentation system for reporting and simple descriptive analysis. The descriptive analyses and trend analyses were then conducted jointly by TURNKEY and NASDSE staff.

The results of this task are included in Volume II and consist of two parts: (1) descriptive analysis; and (2) individual SEA profiles. In the following section we present the findings from the in-depth study of nine SEAs.

II. FINDINGS

The development of study findings has followed lines of inquiry addressing six basic study questions. Each of these six questions is specified below as are salient research findings related to each question.

1. What strategies were used by states to implement the provisions of P.L. 94-142?

Below we summarize the types of strategies used by the states to implement P.L. 94-142, the nature and extent of activities which were undertaken, and the key elements influencing the implementation process. We describe the patterns of findings among individual states and among categories of states (e.g., early versus late "implementors").

Types of Strategies

There appear to be two distinct types of strategies followed by most states; one or two states relied upon a strategy with elements of both.

Two or three states followed a "reactive" strategy in implementing the major provisions of P.L. 94-142. These SEAs spent a relatively high percentage of staff time and effort responding to external pressures from such sources as state legislatures, advocacy groups, and court decrees. In addition, relatively high proportions of staff time and energy were devoted to developing "paper agreements" with other divisions within the SEA and particularly with other state agencies in order to comply with the SEA supervisory provision of the Law. In most instances, the intent of the paper agreements has not been effectively implemented. These states, and particularly the Divisions of Special Education (DSEs) in each of these states, had most of the following characteristics: (a) high staff turnover within the DSE; (b) instability of leadership within the DSE, within the legislature, and/or within the executive branch; (c) the occurrence of personality conflicts within the DSE and/or between the DSE and other SEA agencies and/or the legislature were relatively

frequent; (d) the responsibility of the DSE vis-a-vis other divisions, other state agencies, or regional SEA offices were ill-defined; and (e) the nature of response by the DSE reflected a tendency to defend and protect "turf", and in one case to follow a tactic of "fighting the Feds".

A second category of four or five states undertook a "proactive" strategy, which in most instances consisted of refining existing regulations, developing/modifying formal standard operating procedures, establishing priorities with subsequent follow-through on issues where conflicts with P.L. 94-142 arose, and generating involvement with external groups through task forces and other formal mechanisms. Generally speaking, these states had most of the following characteristics: (a) stability of critical staff leadership within the DSE (although the official leadership in one state turned over twice); (b) a broad base of political support from the legislature, executive office, and advocacy groups; (c) most of the mechanisms to implement P.L. 94-142 were in place prior to its passage (e.g., intermediate education units); and (d) where "turf" battles within the SEA and/or between the SEA and other agencies arose, strong high-level state board or SEA leadership was able to resolve such conflicts.

In one or two states, certain elements of both strategies were observed. These strategies could be characterized as "catalytic" in that the DSE planned for, if not created, the role for both responsive and proactive initiatives. The following patterns were observed under this strategy: (a) the DSE created a demand for its services through "leverage" and "bargaining" at various governmental levels; (b) it followed a set of informal procedures which contained the flexibility to respond to specific problems in the context of an overall plan; (c) it used both Federal and state resources to the maximum extent to implement its strategy; and (d) it purposely used its "power" (political, legal, and other) minimally, such that the limits of that power were not easily discernable by external groups and LEAs. Where this strategy was employed the following characteristics generally existed within the states: (a) a relatively high level of financial and other support from the legislature; (b) the general lack of pre-1975 structures which had to be

replaced; (c) relatively high political support and priority within the SEA; and (d) flexibility to hire qualified staff quickly at the SEA level.

Common Steps or Patterns of Implementation

The following activities or patterns of implementation were noted in all or most of the states as they implemented the major provisions of P.L. 94-142.

All states had to create, change, and/or refine state regulations or by-laws to implement the provisions of P.L. 94-142. In some states, legislative amendments to existing state laws were required, while in other states court orders, citing P.L. 94-142, prompted regulatory changes. In all of the states, two or more versions of regulations reflecting major changes have been issued over the last seven years; and in most states the rule-making process related to P.L. 94-142 is continuing.

In all states, moderate or major substantive changes relating to due process provisions of P.L. 94-142 were made. In all states, changes were made in the hearing or complaint processes. In most states, hearing and complaint procedures were effectively created for the first time after the passage of P.L. 94-142, even though similar procedures were mandated earlier in P.L. 93-380.

In all but one state, new approaches, procedures, and/or mechanisms were developed at the SEA level to implement the IEP provisions of the Law. Most of these changes were related to parent participation, particularly obtaining written and informed consent. In the remaining state, procedures to implement the IEP provisions are presently being drafted for inclusion in subsequent regulations.

In most states, as a result of P.L. 94-142, assessment practices and procedures underwent change, as reflected in revised SEA guidelines and/or regulations. In the two states where changes in assessment procedures were

minor, the SEA had implemented previous changes due to state laws or to court decrees.

In all states, "child find" mechanisms were created, modified and/or expanded, or have been refocused. In one state, child find mechanisms were created by state law in response to P.L. 94-142; in four states, various child find procedures were modified; and in four states, the focus of child find changed (e.g., to state-operated programs).

In all states, moderate or extensive initiatives were undertaken to implement the SEA supervisory provision of P.L. 94-142. These ranged from the creation of an interagency coordinating structure in one state to the negotiation of interagency agreements in all states. While an enormous amount of state-level staff time and energy has been devoted to implementing this provision, in no state is this provision fully implemented at the present time for a number of critical reasons described later.

Key Elements and Factors Influencing the Implementation of P.L. 94-142

A number of critical factors influence the implementation of the Law. In all states, advocacy groups and related external pressures have had a major impact upon the implementation of P.L. 94-142 or the passage of mirror-image state laws. During the early 1970s, "umbrella-type" advocacy groups greatly influenced the passage of state laws and the initial implementation of P.L. 94-142; their influence upon the passage of state laws was critical in six states and assisted in the initial implementation of P.L. 94-142 in the remaining three states. After the initial implementation of P.L. 94-142, in five or six states the most effective external advocacy role has been the "protection and advocacy" program (P&A) funded under developmental disabilities mandates. While the names of these groups varied from state to state, their approach generally was viewed as being comprehensive and problem-oriented, with staff representing a blend of legal and substantive knowledge in special education and P.L. 94-142.

A critical element contributing to successful implementation of the Law was the discretionary set-aside. The manner in which the set-aside was used varied from state to state. For example, in one state the set-aside was used to fund state-wide projects at the SEA level to provide services useful to both the SEA and LEAs (e.g., in-service training, technical assistance, developmental efforts). In another state, a large portion of the discretionary set-aside was allocated to "target" districts, which had inadequate services and "wait lists", to help them meet compliance deadlines. In at least two states these funds were used as "leverage" to generate significantly larger amounts of state and Federal funds. While the specific manner by which funds were used varied considerably, virtually all SEA officials felt that the amount and flexible use of the discretionary set-aside was the most critical positive Federal contribution to assist the SEA in implementing the Law initially and meeting priority needs within their states.

In those SEAs with existing regional or intermediate education unit (IEU) structures, these units contributed significantly to the implementation of the Law, although the specific nature of the contribution varied. For example, in two states the role of the IEUs as the "local education agency" for the purposes of P.L. 94-142 was legitimatized; in other states, the IEUs provided extensive support services and SEA monitoring and enforcement functions; in two states with a long tradition of IEU involvement in special education, existing services provided by the IEUs were expanded generally.

Aside from the DSE, the state legislature is the government entity which has had the greatest influence upon the implementation of P.L. 94-142. While state court decrees had a moderate or significant impact on the passage of state laws prior to the passage of P.L. 94-142, the state legislatures have had a much greater influence on the P.L. 94-142 implementation process, both positively and negatively.

In all but one state, the legislatures have appropriated moderate or significant annual increases in state funds for special education between 1975

and 1980. While slight increases have occurred during the same period in the remaining state, the appropriations level has varied significantly, seriously affecting implementation in that state. In one state, the "joint appropriation" procedure (whereby state legislatures must reappropriate all Federal funds coming into the state) has had a relatively negative impact on the implementation process. In that state, uncertainty, delays, and various legislative "redirections" of the SEA have resulted. In most of the states, the funding formula for special education, as specified in state law, has affected the nature of the implementation process. For example, because of inequities in the state funding formula in one state, a large percentage of the discretionary set-aside was allocated to several districts which were receiving inequitable state allocations. In two other states, the excess cost nature of the state funding formula resulted in the allocation of P.L. 94-142 pass-through funds to the areas not covered or mandated in the state formula (e.g., pre-school and support services).

2. What has been the major impact of P.L. 94-142 upon SEA?

Below we summarize the major areas of impact of P.L. 94-142 which were common among all or most of the SEAs and their Divisions of Special Education.

General Impact Upon SEAs

The SEA supervisory provision of P.L. 94-142 has had the greatest direct impact upon SEAs. It has legitimatized special education and a new role of the SEA is emerging, although with varying degrees of acceptance. However, as noted later, many of the consequences of this provision were either unforeseen or unintended as changes in responsibilities have conflicted with state constitutions or with the traditional roles of the SEA. Staff time and effort devoted to conflict resolution and attempts to implement this provision among other state agencies have been substantial.

In all states, interagency agreements have been negotiated with other state agencies, formalizing a coordination process, which in a few states had previously existed on an informal basis. In one state, a composite set of regulations was developed including all Federal mandates affecting the handicapped (i.e., Title XX, Section 504, P.L. 94-142, and the recently-passed state law); a special school district with state-wide responsibility and authority to ensure the implementation of the supervisory provision was created. In another state, formal structures at the state and local levels within each county jurisdiction are being created to ensure compliance.

In three states, the SEA supervisoy provision conflicted with state constitutions; in the remaining states, the provision represented a moderate or significant break with tradition. In all states, one or more initiatives are still being conducted to fully implement this provision.

The impact of the SEA supervisory provision upon other SEA divisions has also been significant, varying, to some extent, based upon the organizational structure of the SEA (e.g., whether or not vocational education and vocational rehabilitation responsibilities are under the SEA or are under a separate state board or agency). In about half of the states the responsibilities for special education, vocational education, and vocational rehabilitation fall within the SEA. Coordination between the DSE and Vocational Education in regular vocational education has been the most difficult to implement for a variety of reasons including: (a) the relative power and size (hence, "turf") of vocational education within the SEA; (b) the unwillingness of SEA vocational education officials to accommodate the needs of handicapped students; and (c) the perceived conflict between the two sets of Federal regulations regarding least restrictive environment and funding formula. Coordination between the two SEA units has improved regarding the use of the set-aside for special education.

Agreements with vocational rehabilitation have generally been easier to implement, especially when that responsibility is under SEA auspices. Here, issues relate less to funding and participation rates than to philosophical

differences (e.g., the IEP viewed as an education plan in special education versus the IWRP viewed as a "life goal" plan in vocational rehabilitation). Relations between special education and ESEA Title I vary markedly among the states and are related mostly to personalities involved and to expected modifications in ESEA Title I regulations. In all but one state, primarily as a result of P.L. 94-142, the administrative and monitoring/enforcement responsibilities of P.L. 89-313 programs (i.e., ESEA Title I set-aside for the handicapped) have been asigned to the DSE in all but one state.

In all states, the DSE has contributed resources to improve coordination and implement this provision. For example, most states have contributed special education funds, mostly discretionary, to joint in-service training sessions with other agencies. One DSE has assigned up to seven of its staff members to other divisions and agencies to improve coordination; another contributed $200,000 to Vocational Rehabilitation to generate $1 million of matching funds; others have contributed dollars to Title IV-C projects for validation, packaging, dissemination, and other purposes. The flexible use of the discretionary set-aside funds has played a critical role in improving the coordination of services among other divisions and agencies for handicapped students.

While the implementation of the SEA supervisory role has had the greatest general impact upon SEAs, the passage and implementation of P.L. 94-142 generally has had a subtle, but varying impact upon SEA-LEA relations. In certain areas, such as due process (specifically relating to hearing and complaint resolution procedures), power has become more centralized at the SEA level at the expense of local autonomy, a phenomenon which, in certain states, met with resistance at both the LEA and SEA levels. In other areas, such as monitoring and enforcement, the centralization of power at the SEA level is probably less real than perceived, particularly by LEAs. For example, in none of the states have significant funds been withheld or returned from LEAs because of audit exceptions and subsequent action undertaken by the SEAs. In one or two states, SEA officials felt that their power had actually been decentralized to regional offices or IEUs since the passage of P.L 94-142. In

no state did P.L. 94-142 cause the SEA to provide a significant increase in direct operational programs or services in those instances where LEAs were ineligible to participate due to the $7,500 limitation. Cooperative arrangements or other mechanisms created by state law were able to accommodate these LEAs without direct state intervention.

Although not unique to special education as a categorical Federal aid-to-education program, the implementation of P.L. 94-142 has tended to foster administrative and management problems for those SEA officials responsible for overall policy formulation and implementation for overall education programs generally within a state. The categorical nature of special education, as well as other programs such as ESEA Title I, has become more formal with turf boundaries becoming institutionalized due to: increased specificity and details in regulations and interpretative rulings in each of the categorical programs (a phenomenon increasingly observed as Federal aid-to-education programs mature); and increased competition among categorical program constituencies for a shrinking Federal and/or state total education budget.

Another contributing factor is the emergence of a "linearity of loyalty", a term coined by a former Chief State School Officer to describe situations in which administrative staffs at the Federal, state, and local levels within a specific categorical program area have loyalties, professional goals, philosophies, career interests, and vested interests (e.g., their salaries are usually paid out of the Federal categorical program) which are more common with one another than with other administrators at the same level of government. This factor is perhaps more significant in special education than in other categorical programs.

As a result of these phenomena, policy and management problems have arisen at the SEA level. Some SEAs recently reorganized (e.g., by placing all categorical or special needs programs in one division); other SEAs have separated critical functions from those administering categorical programs

(e.g., assigning fiscal and program audit responsibilities to one SEA division responsible directly to the Chief State School Officer).

Impact Upon Special Education Division

Organizational

In all of the state DSEs, a new or greatly expanded "monitoring and enforcement" unit or responsibility has emerged since 1975. In all states these units exist within the DSE; in four states, units have also been created at the IEU level; and in two states, some responsibility has been delegated to ten regional offices which are staffed by the SEA. In virtually all states, the SEA monitoring and enforcement responsibilities have been expanded to include other agencies (e.g., Department of Corrections) and state-operated programs. While the expansion of responsibilities is directly the result of P.L. 94-142, a general impetus for the creation of monitoring and enforcement units can be attributed to both P.L. 94-142 and the Education Amendments of 1978, which require each SEA to conduct monitoring and enforcement functions for all Federally assisted education programs under its jurisdiction.

In all but one state, the administration and/or monitoring/enforcement responsibility of P.L. 89-313 has been transferred to the DSE, where single individuals have been assigned these responsibilities. In some instance, DSEs have used their state "five percent set-aside" to support these individuals and the unit; in most states, portions of the Title I administrative set-aside funds have been transferred to the DSE.

In those SEAs with IEUs, the role and organizational structure of the IEUs has been changed as a result of state law and P.L. 94-142. In these states the IEU is increasngly becoming an extension of the SEA, particularly regarding monitoring and enforcement functions. The IEU role, and in some instances organizational structure, in information collection and reporting required by P.L. 94-142 has changed.

In all states the DSE has been elevated in the organizational structure of the SEA since 1975. For example, in 1979 in six SEAs, two or three positions in the "chain of command" were between the DSE diector and the state superintendent; today in those states only one intermediate position exists.

DSE Functions

The most significant change in DSE functions was the increased staff time and allocation of resources to monitoring and enforcement (regulatory) activities with a lesser amount of staff time and resources allocated to training and technical assistance. The magnitude of the increased monitoring and enforcement role is even greater when one includes staff time and resources at IEU levels and in regional offices devoted to this function. As described later, this role change among DSEs has had a dramatic impact on staff, resulting in moderate to high turnover rates and/or generally lower staff morale within each SEA. As this role represents a moderate to major break with SEA tradition, the impact of the Education Amendments of 1978 has provided some "consolidation" to DSEs as other divisions within the SEA are now having to share the "black hat" or "villain" role which, as a result of P.L. 94-142, only the DSEs had.

Within the generally increased regulatory functions of the DSEs, the specific activities which have consumed proportionally more time and resources since the passage of P.L. 94-142 relate to hearing processes and complaint procedures. As noted earlier, all states had to create and/or expand hearing and complaint procedures since 1975. Most PAR reports (ED/OSE) have identified the need for corrective action, if not audit exceptions, in these two areas. Moreover, the recent publication of EDGAR hearing procedures also resulted in minor changes in some states.

Generally, the relative amount of staff time and resources allocated to SEA review of LEA applications has not changed. However, as a result of P.L. 94-142, there have been some impacts upon this SEA function which have been self-neutralizing. For example, as a result of P.L. 94-142 eligibility

provisions (e.g., $7,500 limitation) and certain state laws, the number of applicants in several states is significantly lower than the number of LEAs (e.g., in one state 500 applicants versus over 1,000 LEAs). In many instances, LEAs have formed "cooperatives" or other arrangements which have reduced the number of LEA applications. In other states with IEUs, the SEA reviews only IEU applications or "plans". In both of these instances, the number of applications reviewed at the SEA level has decreased. On the other hand, in most states the number of applications for discretionary set-aside funds have increased dramatically (e.g., in one state 350 applications for discretionary funds versus 24 basic LEA applications). In short, while the nature of staff time allocations to the application review process has changed in most states, the relative amount of staff and other resources allocated to this function has not changed significantly.

In all states, as a result of the SEA supervisory provision, increased staff time and resources have been allocated to the coordination of services with other state agencies and with other divisions within the SEA. As these SEA responsibilities were "new" in most states as a result of P.L. 94-142, the relative increase in staff time and resource in this function has been great.

SEA Staffing Patterns

Since 1975, there has been an increase in staff assigned to the Divisions of Special Education and/or to special education administrative responsibilities at regional offices or IEUs. In four states, the increase has been relatively low, ranging from 12 percent to 60 percent. The increase in professional staff in the remaining five states ranged from 200 percent to 300 percent. In the five states with regional offices or where IEUs performed SEA administrative and/or regulatory functions, the increase at these levels has been between 20 percent and 100 percent. As noted earlier, there has been a moderate or significant increase in staff time allocated to monitoring and enforcement functions and a corresponding decrease in training and technical assistance effort.

During the five-year period, in all states, there has been a shift in staffing patterns. Generally, the percent of staff with prior experience and training in substantive specialty areas in special education has decreased slightly or significantly, while the proportion of staff with general administrative, analytic, and related skills, training, and experience has increased moderately or greatly, once again reflecting the heavier emphasis upon monitoring and enforcement and related compliance activities, such as data processing, information systems, etc. In four of the nine states, a full-time lawyer has been hired by the DSE; in the remaining states, lawyers are assigned to the DSE on a case-by-case basis from the Office of the Attorney General or the General Counsel Offices within the SEA. In 1975, none of the nine states had either a full-time or part-time lawyer as part of the DSE staff.

DSE Budget

During the period 1975 through 1980, the operating budgets for the Divisions of Special Education in each of the nine SEAs increased moderately or significantly, generally paralleling the increases in staff assigned to the DSE described earlier. Aside from staff and related line items (fringe benefits, insurance, etc.), other line items in which major increases occurred were professional fees and travel. Few, if any, funds were spent on professional fees (e.g., hearing officers, legal fees) during the 1975 period; budget estimates or actual expenditures for fiscal years 1980 or 1981 indicate significant increases ranging from $15,000 to $95,000. These costs do not include legal staff assigned to the DSE and/or available within the SEA or the Office of the Attorney General on assignment to a DSE.

The majority of SEAs used the five percent set-aside as their major funding source for DSE expenditures. However, in two states, the DSE decided not to or was not allowed to use all of the five percent set-aside; rather, portions of the five percent set-aside were either passed through on a formula basis to all LEAs or were used to assist specific districts with serious compliance problems. In one state, the personnel hiring restrictions, imposed by the office of the governor and the legislature, restricted the expenditure

of the five percent set-aside for SEA administrative purposes, while in the second state, restrictions were placed upon the agency through a general "reduction in force" throughout the SEA.

Federal Relationship

The implementation of any Federal aid-to-education legislation requires a combination of both formal and informal procedures and methods of communication and linkages at all levels of government. In special education, the informal communication procedures, linkages, and professional ties appear to be stronger than in other categorical programs. Indeed, within the context of meeting minimal formal requirements and procedures, the informal mechanisms and linkages between the Bureau of Education for the Handicapped (BEH) and SEAs contributed significantly to the initial success and overall implementation of P.L. 94-142. Moreover, BEH (now OSE) tended to approach or "treat" states differently, in light of: the DSE intent; the effort to implement the Law within the state's legal framework and tradition in specialate in special education; and the resources available at the state and local level to implement the major provisions of the Law. For example, in one state which was having difficulty in implementing its state law and P.L. 94-142 provisions, the SEA was allowed to spend all of its initial first year allocation of P.L. 94-142 funds for capacity building at the state level. In addition, BEH provided additional funds through discretionary grants and other sources to states to conduct studies, needs assessments, and related developmental efforts. Indirect assistance to states was provided by BEH through NASDSE, which provided additional training and technical assistance.

Since the implementation of P.L. 94-142, a number of changes in the state/Federal relationship has occurred. Federal/SEA relations in special education have become more formal in general, a phenomenon observed in all Federal aid-to-education programs as they "mature". The specific reasons for this increased formality varied among the nine states. Most DSE officials, but not all, felt that the increased activity and priority at the Federal level in "monitoring and enforcement" forced DSEs to increase "documentation" of

implementation practices in their states. For some, the perceived and actual Federal emphasis on monitoring and enforcement created a "psychological need" to formalize procedures both with BEH and with LEAs.

The majority of DSE officials felt the need to formalize communications with BEH because of "too much noise in the system". In most of these states, DSE officials felt that directives, interpretations, etc. from both OCR and BEH were often inconsistent and in some cases conflicting. In other instances, DSE staff felt BEH was not always consistent over time in providing responses to "non-policy" questions. This was generally due to: (a) turnover and reassignment of BEH state project officers; and (b) Federal court decrees and interpretations in specific states, which BEH had treated "differentially" in the first place. Hence, communications between the two levels have become more formal, with increasing documentation through correspondence or in State Annual Plans.

In a number of states, DSE officials felt that "critical" conflicts had fostered the need for formal relations. In some states, the conflicts revolved around personalities, particularly in some situations where former SEA officials had been hired at the Federal level with responsibilities affecting their former employer. In other instances, the conflicts related to basic disagreements over philosophical issues (e.g., a two-phased IEP process was felt to be more educationally sound than that mandated in the regulations) and legal issues (e.g., state constitutions and law regarding due process and the SEA supervisory role).

While the relationships between individual SEAs and OSE have become more formal, informal communications through third parties, such as CCSSO and NASDSE, continue to play a critical role in the resolution of conflicts in the implementation of P.L. 94-142.

3. To what extent has the implementation of P.L. 94-142 created unintended and/or unforeseen consequences at the SEA level?

The major "unintended" or "unforeseen" consequences at the SEA level which have occurred during the implementation of P.L. 94-142 are noted below. The "unintended" consequences relate to those effects which Congress clearly did not intend and those unintended effects of the rule-making process (e.g., regulations and interpretive rules). In certain instances, the "unintended" versus "intended" nature of the effect may be debatable depending upon an individual's interpretation of Congressional intent. "Unforeseen" consequences for the most part are those whose magnitude was not comprehended during or shortly after the passage of P.L. 94-142. Unforeseen consequences which have been identified are both positive and negative as regards the implementation process and impact upon the SEA.

The SEA supervisory provision has had the greatest effects upon SEAs, some of which were unintended or unforeseen. For example, in three of the SEAs, other state agencies have withdrawn services previously provided to school-aged handicapped children. In one state, the number of school-aged children served by vocational rehabilitation dropped about 50 percent over the last five years. Withdrawal of services can be attributed to "turf battles" which surfaced as a result of the provision and allegations by other state agencies that SEAs and LEAs were receiving more than enough funds under P.L. 94-142 to pick up the "slack". In three states, the magnitude of conflicts between this provision and state laws and/or constitutions was unforeseen. Most of the issues related to erosion of local control. For example, in one state, the hearing and complaint procedures conflicted with the constitutional rights of local boards of education; in another state preclusion of the Chief State School Officer as a hearing officer violated state law. In another state with a historically weak cabinet form of government, the provision not only conflicted with the constitution, but represented a dramatic break with tradition, causing implementation of this provision to be extremely difficult and slow in this state.

The SEA supervisory provision has cast upon DSEs a new role in placement decisions -- a role which has been only grudgingly accepted. While the SEA role in placement decisions regarding nonpublic placements was "new" in only a few states, its role in placement decisions regarding children served by other state agencies is new in all states. Many DSE officials felt that they were asked to make decisions about children for whom the majority of services were provided by "welfare agencies", with only minimal services to be provided by "education agencies". In at least one state, the state law and regulations were changed to clarify the final placement decision authority by generally placing that authority in the agency in which the child resided.

The relationship of advocacy groups with the SEA generally, and particularly with the DSE, has become more formal with "their lawyers talking to our lawyers"; moreover, while close mutually supportive relationships existed when state laws were passed, a divisive, adversarial relationship has increased moderately to greatly. In those states with moderate to high rates of state appropriations for special education, the observable role of "umbrella-type" advocacy groups has generally dissipated while a large number of smaller special interest "splinter" groups (e.g., autism) have emerged. Few SEA officials perceived the creation of "Protection and Advocacy" offices funded under developmental disabilities as becoming a major force in monitoring the implementation of P.L. 94-142.

In all states, the increased and expanded role of the "special education lawyers" was generally unforeseen. The emergence of this "brand of lawyer" has resulted in more formal communications, coordination, and related procedures in states where informal procedures previously worked rather effectively. In several states procedures have been formalized for virtually all communications and contacts at the state and local level between officials and parents, other agencies, and other external groups. Anxiety levels have also increased among SEA (and LEA) staff due to the fact, according to one respondent, that "the legal mind-set and modus operandi is in direct conflict with the mentality of most educators". The DSEs in virtually all states have sought increased legal

counsel from within the SEA or the Office of the Attorney General; in four SEAs, the DSEs recently hired full-time lawyers. In one state the Director of Special Education is a lawyer.

Tensions between the DSE and other SEA divisions have increased moderately to greatly as a result of P.L. 94-142. In some states, jealousies have arisen, due to the perceived "unjustified" increase in funding of special education, while Federal and state funding for other categorical programs have remained the same or have even decreased. On the other hand, according to one SEA staff person, "the other divisions are jealous of our division because we have a clear Federal and state mandate and responsibility, where their's is less clear". In other instances, the backlash against special education at the local level from the "general education community" is filtering up to the SEA level where it is becoming more pronounced. Another factor contributing to increased tensions can be attributed to a "tightening up" of regulations for all categorical programs, which creates interface problems between, for example, Title I and special education; rather than solving the problem, detailed regulations have further entrenched boundaries and, hence, increased turf battles.

The increased monitoring and enforcement role of DSEs has created a number of unintended, and certainly unforeseen, effects. In all but one state where high rates of DSE staff turnover have occurred over the last five years, virtually all officials felt that the increased monitoring and enforcement role contributed significantly to turnover. Prior to the passage of P.L. 94-142, the majority of DSE staff were substantive specialists acting in consultant and technical assistance roles with LEAs. Some staff left as the demands of monitoring and enforcement functions could not make use of their substantive knowledge and skills. According to many SEA staff, a larger number left because they did not want to be put in a "villain role" wearing the "black hat". As stated by one official,

> "Even though TA staff were not paid the salary level which they could have received in most school districts, in the early days many

remained with the SEA because they received psychic rewards from playing a leadership and technical assistance role. When the monitoring and enforcement function increased, this was the straw that broke the camel's back and they left."

In those states where high staff turnover was not experienced, the increased enforcement role of the SEA seriously affected morale. Even in those few states where SEA officials felt that the monitoring and enforcement role had not increased that greatly, they felt that LEAs perceived a significant change if for no other reason than SEA staff visited LEAs more often. One unforeseen and somewhat salutatory effect on DSEs has resulted from the passage of the Education Amendments of 1978 which required that the SEA increase monitoring and enforcement efforts and reporting for all Federal aid-to-education programs under the responsibility of the SEA. One state official stated that the Amendments of 1978 "passed the black hat around to other SEA divisions which made the increased monitoring and enforcement function in the Division of Special Education less conspicuous".

The lack of clarity over "related services" has spawned a number of unforeseen consequences which have contributed to a general backlash against special education. Even in those states where the definition of related services evolved slowly, the additional cost of related services for handicapped children further contributed to a pervasive and growing backlash. For example, a budget official in one SEA commented on the projected budget being sent to the legislature: "Can you imagine what the legislature is going to say when they see that 25 percent of the total transportation for the state is being consumed by three percent [handicapped students] of the total student population?" In several states, initial confusion over related services, according to several SEA officials, contributed to an early withdrawal of services by other state agencies, giving them "an easy out". In approximately half of the states, SEA officials felt that the general confusion over related services contributed to the splintering of umbrella-type advocacy groups and encouraged the emergence of very highly special interest, advocacy, and professional groups to be formed around various related service issues (e.g., physical and occupational therapy).

The impact of other Federal legislation and regulations has impacted upon the implementation of P.L. 94-142 in several unforeseen ways. For example, the Education Amendments of 1978 legitimized general SEA monitoring and enforcement functions and, indeed, made the DSE role less conspicuous. The publication of complaint procedures in EDGAR appears to have resulted in more uniformity among states, although according to several SEA officials, it provided some opportunity to "water down" the complaint procedures which were based on a stricter interpretation of P.L. 94-142 provision. The emerging role of protection and advocacy offices under developmental disabilities auspices has had a major impact on the implementation of P.L. 94-142 in several states. While most states have been able to resolve definitional problems over children who are eligible for Title I and special education, anxiety levels have once again increased due to revised regulations for ESEA Title I and new OSE interpretive rulings regarding IEPs and related services. Most special education SEA staff felt the use of the IEP as an audit document e.g., as required in ESEA Title I proposed regulations) was neither practical nor appropriate.

The procedures used for reporting child counts, and to some extent implementing the child find provisions, have over the last few years undergone a number of changes, which have contributed to a number of unintended consequences. For example, in one state which instituted the initial (October and February) count requirements, a court consent decree required a third census. Due to this decree, the SEA was unable to simplify the Federal requirements when the December count was instituted to replace the October and February counts. Hence, in this state the SEA continues to conduct three census counts each year, consumeing an enormous amount of staff time and resources at the SEA level and constituting an increased, and probably unnecessary, burden at the LEA level. In another state with a substantial migrant student population, SEA officials argued that the one-time December count is unfair in that end of year cumulative counts for each of the last few years has been approximately 20 percent larger than the "official" reported count, which constitutes the basis of its allocation under P.L. 94-142.

4. To what extent did "unintended" consequences, which were initially anticipated, fail to materialize and how did SEAs cope with these problems?

Shortly after the passage of P.L. 94-142, a number of unintended consequences, as perceived by SEA officials and others, were identified through various forums (e.g., IEL, NASDSE). Some of these perceived negative consequences, however, did not occur to the extent originally anticipated as SEAs developed strategies to cope with them.

Most SEA officials felt that P.L. 94-142 would result in significantly increased funds allocations to children served by non-public providers, either in-state or out-of-state. In the majority of states this increase did not occur to the extent anticipated. In those states with relatively high numbers of out-of-state placements, shortly after the passage of the law a significant trend to return these children to in-state institutions or LEAs was observed. The reason for this trend was attributed to: (a) an attempt to reduce costs; (b) an increased emphasis on deinstitutionalization and/or placement of children in least restrictive environments; and (c) the costs and difficulties faced by SEAs in performing their supervisory, monitoring, and enforcement functions over children in out-of-state facilities.

In those instances where P.L. 94-142 conflicted with state laws regarding non-public providers and/or the allocation of funds to them, most SEAs made changes in state law or regulations in order to minimize the increase of state and Federal funds to non-public providers. In one state with a large number of private providers and a state law which provided approximately five times the amount for a child placed in a private institution (versus an LEA placement), the SEA was instrumental in changing the state law and funding provisions such that LEAs had greater discretion over private placements and an increased monitoring and enforcement role. In another state where similar financial incentives existed for non-LEA placements, the regulations were changed requiring prior SEA approval for such costly placements. Initially, most of the hearings in that state related to non-LEA placements.

Initially most SEA officials felt the funding formula and funds allocation process inherent in P.L. 94-142 would create a number of major unintended consequences and/or conflicts with state policies and laws. For example, felt that the $7,500 limitation would preclude a large number of LEAs from participating in the program; however, as noted earlier, creation of "cooperatives" and other arrangements reduced the impact of this perceived inequity. Others felt that the excess cost provision would conflict with attempts in some states to equalize educational expenditures. As noted earlier, while excess cost formulae in several states did influence the nature of funds allocation of P.L. 94-142 funds (e.g., to support services at the IEU level, preschool services which were not mandated by state law), several SEAs used their 20 percent discretionary set-aside and even portions of the five percent administrative set-aside to "flow through" funds to those districts which were in a relatively low stage of development and/or were receiving inequitable allocations of state funds.

In other funds allocation areas, SEA officials initially expressed additional concerns including: (a) using P.L. 94-142 to supplement rather than supplant funds required by state law; (b) the commingling of P.L. 94-142 with other funds, such as P.L. 89-313, in those instances where follow-the-child provisions were exercised; and (c) the bases for ensuring and reporting comparability. With only a few minor exceptions, the anticipated effects of these provisions have not materialized. While many SEA policies and decisions are made in the context of assuring compliance in these areas, these issues have not surfaced at the state level. For the most part, Federal monitoring, enforcement, and compliance activities have focused upon mandated procedures rather than funds allocation. On the other hand, as a result of passage of "Proposition 13-type" legislation (or referenda) and/or actions by the Governor, in some states the maintenance of effort provisions of P.L. 94-142 are increasingly becoming a major potential compliance issue.

5. To What Extent Were Patterns of Implementation and Impact Observed Among Groups of States?

In this section, we describe some of the patterns of implementation and impact which vary according to two state dimensions: implementation date of state laws; and SEA centralized powers.

Early Versus Late Implementor

Five of the nine SEAs, categorized as "early implementors", have most or all of the following characteristics: (a) the state law similar to P.L. 94-142 was passed prior to 1975, with an implementation date prior to the passage of P.L. 94-142; (b) prior to 1975, the state law either created or expanded critical mechanisms (e.g., IEUs) to implement the law; (c) the implementation of the state law was uniform across the state; and (d) a significant increase in the appropriation of state and local funds for special education had been experienced prior to 1975, as indicated by a relatively low proportion of Federal funding (i.e., less than six percent) as a percentage of total state and local per-pupil expenditures.

The "late implementors", consisting of the four remaining states, have the following characteristics: (a) the actual implementation and/or passage of the state law similar to P.L. 94-142 occurred after 1975; (b) the implementation of the state law on a state-wide basis (as opposed to staged pilot implementation) occurred after 1975; (c) relatively few mechanisms were in place prior to the passage of P.L. 94-142 on a state-wide basis; and (d) the proportion of Federal expenditures as a percentage of total per pupil expenditures within the state was relatively high (e.g., 10 to 17 percent), which was primarily an indication of the relatively lower level of state and local per pupil expenditures.

SEA Rule-Making

In contrast with late implementors, early implementors have allocated a higher proportion of staff time and effort to expanding, modifying, and refining regulations since the passage of P.L. 94-142. Most of the late implementors had the benefit of P.L. 94-142 legislation, draft regulations, and models (e.g., various documents developed by the Council for Exceptional Children and NASDSE) which facilitated the development of their regulations, the relatively high burden placed upon the early implementors could be attributed to several factors.

The rule-making process for state law was very lengthy and time-consuming, involving a large number of parties with vested interests, requiring many compromises during the negotiating process. When P.L. 94-142 passed with very detailed provisions (especially in subsequent Federal regulations), there existed a number of inevitable conflicts with state laws and particularly specific state regulations. In many instances, attempts to minimize conflict and ensure congruence between state regulations and Federal regulations followed many of the same lengthy processes involved in initially developing state regulations, which consumed an enormous amount of SEA staff time.

In those areas where state law and regulations conflicted with major provisions of P.L. 94-142, some SEAs refrained from making changes; this resulted in confusion which again consumed SEA and LEA time and effort. In some states, the lack of clarity in Federal regulations also contributed to this confusion. In other instances, the DSE felt that some changes in P.L. 94-142 might be made, and therefore postponed making changes in state regulations. As a result, in several of the early implementors, two sets of regulations (i.e., state and Federal) were disseminated and were "in effect" until recently.

In instances where differences existed, some SEAs felt existing practices (e.g., two-phased IEP development) were more practical and feasible than provisions in P.L. 94-142. They also felt the state regulations, which were in

place, should be continued and that the time and effort to make "unnecessary changes" would be disadvantageous to LEAs.

In short, the rule-making process in early implementors was more time-consuming and lengthier than anticipated and, as noted earlier, the rule-making process is continuing to this date in all early implementor states.

Reliance on IEUs

Unlike the late implementors, the early implementors relied much more extensively and in a different manner, upon IEUs within their state to assist in the implementation process. Since the passage of P.L. 94-142, certain SEA functions have been delegated to IEUs (e.g., application review, monitoring and enforcement, and support services). In late implementor states, where IEUs and regional SEA offices existed, they are used primarily for support services and technical assistance functions. In one late implementor, IEUs are only recently becoming actively involved in providing direct support services to LEAs and information collection and processing services to the SEA.

Impact of SEA Supervisory Provision

While the SEA supervisory provision has had a large impact upon all SEAs, the nature and extent of the impact varies somewhat between the early and late implementors. In the early implementors, the SEA supervisory provision expanded approaches previously used by the SEA to ensure interagency coordination, such as interagency agreements. In certain instances, it forced SEAs to formalize procedures which had been used previously rather effectively. Also, it tended to legitimatize SEA functions implied in prior state law or actions taken by the governor to ensure coordination of services for the handicapped.

In the late implementors, the SEA supervisory provision tended to legitimatize the accountability of the SEA more so than specific functions and relationships with other agencies. In these states, the SEA supervisory role

presented not only a break with tradition, but also presented a larger number of conflicts with state constitutional law. Whereas the results of improved coordination are beginning to be observed in early implementors, manifestations (beyond paper agreements) thus far in the late implementors are generally minimal.

Use of Discretionary Set-Aside

As stated earlier, the 20 percent discretionary set-aside was perceived by most SEA officials as being the single most significant Federal contribution to the implementation of P.L. 94-142. The use of the funds varied significantly from state to state during the initial allocation (in 1977) and in subsequent allocations. This finding has been recently corroborated by a study conducted by the Rand Corporation (Thomas, 1981). For the most past, the DSEs have allocated the discretionary set-aside to those activities which address state-wide priority needs and/or inequities in state funding formulas. During the initial allocation, the nature and extent of funds distribution was influenced by several constraints, such as (a) lack of administrative mechanisms by which to allocate funds to priority needs; (b) restrictions placed on the DSE by the state legislature; and (c) political pressures by high-level SEA officials to flow through as much as possible of the discretionary set-aside to LEAs.

As one compares the funds allocation of the 20 percent set-aside among early versus late implementors, one might expect that the late implementors would be more likely to allocate funds for: (a) state-wide development or capacity building projects; (b) in-service and other training projects; and (c) the establishment of mechanisms (e.g., management information systems) where they did not exist. On the other hand, one would anticipate that early implementors would more likely allocate funds to: (a) LEAs and IEUs which otherwise would have difficulty meeting compliance deadlines due to inequities in state funding formulas; (b) developmental efforts which focused on improving the quality (as opposed to the quantity) of special education services; (c) training projects which were procedure-oriented (e.g., due process hearings);

and (d) LEAs on a targeted or non-targeted basis as state-wide priority needs were met, thereby flowing through a larger portion of the 20 percent set-aside.

Generally speaking, these anticipated trends have occurred. Among the late adoptors, with one exception, the portion of the 20 percent set-aside allocated for development and training is between 70 and 92 percent. On the other hand, early implementors allocated between zero and 55 percent to development and training activities. Similarly, the range of funds allocated to targeted pass-through funds in the late implementors was between zero and 25 percent, while among the early implementors the range was between 25 and 60 percent, with two states allocating 50 percent of their discretionary set-aside on a targeted basis. In the one state that does not fit into the pattern, the entire first year allocation was allocated to state-level activity. In subsequent years, due to restrictions imposed by the legislature and state officials, 95 percent of the total allocation has been passed through, generally on a formula basis.

Impact on DSE Functions

The monitoring and enforcement functions required by P.L. 94-142 and the Education Amendments of 1978 have been easier to implement, with less staff time in the early implementator states. This is particularly true in early implementor states which delegated certain functions to IEUs and which had monitoring and enforcement functions in place as a result of state law. In the late implementator states, the monitoring and enforcement function has consumed a relatively larger proportion of staff time, especially when the "technical assistance" provided by the DSE at the state or regional level (which is often perceived as an SEA monitoring function by LEAs) is included. Monitoring and enforcement functions generally have not been implemented on a state-wide basis in late implementator states to the extent they have in the implementors.

Relations between the DSE and other SEA divisions in the early implementator states tend to be more formal and procedural in nature than in the late implementors, where informal and "flexible" arrangements have emerged.

Impact on Staffing Patterns

While there has been a general increase in professional and other staff assigned to the DSE in all states, the increase in professional staff in the early implementor states is generally greater than in the late implementor states. In four of the five early implementor states, the number of professional staff has increased between 200 to 300 percent since 1975. In addition, in those early implementor states which have delegated functions to IEUs or regional offices, the increase of professional staff at these levels has increased between 20 and 100 percent. In three of the four late implementor states, the increase in professional staff assigned at all levels has been significantly less, ranging from approximately ten to 60 percent.

Generally speaking, over the five year period, the increase in staff time allocated to monitoring and enforcement functions has been higher in the late implementor states than in the early implementors, especially if one takes into account the increases in "technical assistance functions", which are perceived by LEAs as being a monitoring function.

Aside from the above patterns, no other staff related patterns were found in contrasting early versus late implementor states. For example, full-time lawyers assigned to the DSE were found in two early and two late implementors. The composition of DSE staff among the two categories are rather similar; also, the method of staff expansion within DSE (i.e., reassignment of existing SEA staff versus hiring new staff) vary as much within the two categories as between them. For example, in one late implementor, with a significant increase in staff, the majority of staff were recruited mostly from out of state; on the other hand, an early implementor state with a significant increase in staff had almost half of its total staff positions assigned to it from the SEA and other state agencies. DSE staff turnover at either the director or branch chief level has varied considerably among the states, but not along the dimension of early versus late implementation date.

Centralization of Power

One sampling dimension was the degree of centralization of decision-making within the state at the SEA level. Using the Wirt index, two states were ranked as having highly centralized decision power and functions; three having a moderate degree of centralization, while four were ranked as having low SEA decision-making power (i.e., local automony was prevalent). Using this index, we reviewed all of the categories of strategies, impacts, unforeseen consequences, and coping strategies and found that no major patterns exist. This finding, in itself, is extremely interesting, in that one might have assumed that those SEAs with a tradition of highly centralized decision-making power and functions would have been capable of: (a) implementing the major provisions of the law in a relatively short period of time; (b) developing mechanisms for implementation quickly; and (c) developing coping strategies which would have minimized unintended effects. Because these hypotheses were not confirmed, a number of possible alternative explanations were explored.

The Wirt index may not be an accurate index for special education, although it has been used successfully for similar purposes in other studies which focused on general education policy making within states. The Wirt index was based upon data collected prior to the passage of state special education legislation in all states in the sample. Also, the Wirt index generally applies to the relative power of the SEA versus LEAs in each state. The organization of special education involves IEUs in approximately half of the states in the country and in our sample; this presents a confounding organizational factor. For example, in one state, the IEUs are the "legal LEA" for special education purposes. In other states, IEUs provide an extension of the SEA functions in various areas. Moreover, where IEUs do not exist because of the $7,500 eligibility criterion, a number of co-ops are the "LEA" for purposes of special education.

In the context of the above discussion, we have developed a simple index for ranking the nine states in this study according to factors such as growth of DSE staff, SEA decision and approval requirements and other factors related

to special education. According to this ranking, the SEA with the lowest degree of centralization using the Wirt index would be ranked among the top three in which SEA decision-making power and functions are centralized for special education. An SEA ranked in the top third according to the Wirt index would be ranked in the lower third according to this index. In addition, two other states ranked in low and moderate categories would move respectively into moderate and high categories of centralization. The net result of this "re-ranking" indicates that the Wirt index generally underestimates the degree of centralization at the SEA level in special education compared to general education. However, as one attempts to identify any patterns using this revised index, the patterns are those associated with "early" versus "late" implementors as described earlier; with the exception of one state, high centralization states according to this index are those states classified as early adoptors.

Moreover, because most of these states have implemented their state law prior to the passage of P.L. 94-142, it is also interesting to note that for the most part the centralization in those states in special education occurred prior to P.L. 94-142 as a result of passage of state law, MARC decrees and other court actions prior to 1975. In this sense, with the exception of one state, it is relatively clear that P.L. 94-142 has not generally affected the degree of local automony and SEA/LEA relationships to any great extent.

Another set of explanations could be associated directly with the unique aspects of P.L. 94-142. With most categorical Federal aid-to-education programs, a division within the SEA is clearly responsible for all functions. However, under P.L. 94-142, the SEA has responsibilities for functions of programs and services operated or provided by other state agencies at both the state and local levels. In this sense, the Law mandates that SEA decision-making power over other state agencies be increased. One would anticipate those SEAs with high degrees of centralization vis-a-vis LEAs would be better able to implement the SEA supervisory role, even though turf battles would have ensued. In SEAs which have a high priority within the executive branch or which are mandated by court decrees, this phenomenon has to some

extent been observed. Similarly, in those SEAs with a strong tradition of state agency independence and a relatively weak cabinet form of government, one would anticipate relatively less progress to have been made. In those states where conflicts exist between state law and P.L. 94-142, one would anticipate relatively less progress and changes in state law and the state constitution. These findings also hold.

Another explanation is that P.L. 94-142 forced too many "new responsibilities" at the SEA level; these may have represented such radical departures from the traditional role of the SEA, that it has purposely hesitated to usurp and centralize decision-making at the expense of LEAs. For example, a number of SEAs are hesitant to attempt to implement the SEA supervisory role beyond negotiated paper agreements because of the "futility of the exercise." One high level official in one SEA expressed opposition to P.L. 94-142 by saying, "The law has to be considered as Federal intrusion of local responsibility. It says 'who' should receive priority service; how the service should be provided through the IEP; and what should be provided...related services." This official is responsible for policy in the SEA ranked highest according to both indices.

6. What Exemplary or Creative Coping Strategies Were Used by SEAs to Implement P.L. 94-142?

In all nine states, one or more innovative and/or exemplary approaches to implementing specific provisions or creative strategies for coping with implementation problems were observed. Below, we describe a number of these as case study illustrations.

SEA Supervisory Provision

Wrestling with the SEA supervisory provision, a number of states undertook some radically different, yet creative, approaches to implement this major provision.

Case 1: Creation of a State/Local Coordination Structure

This state has a long tradition of political and financial support for special education and services for the handicapped. Shortly after the passage of P.L. 94-142, a commission, created by the Governor, outlined a structure for coordinating services for the handicapped. As subsequently refined, this structure, which is presently being implemented, has the following components:

- A state coordinating committee, consisting of a representative each of three state departments and the Office of the Governor, was created with overall policy development responsibilities to ensure coordination of services for clients who are served by two or more departments and/or for those clients being transferred from the responsibility of one state agency to another.

- A local coordinating council is being created for each of the county jurisdictions within the state and will be largely responsible for resolving any disputes among state agencies at the local level to ensure that eligible clients are receiving adequate services.

- A new system of case management is being created to ensure clear accountability and responsibility and to "ease" the transfer of case management responsibilities for individual clients as they are transferred from one agency jurisdiction to another. In this state, an increased trend toward "deinstitutionalization" to community-based education centers and LEAs has occurred.

In order to facilitate resolution of any disputes which are not settled at the local level, an interagency appeals board is being created. The creation of the interagency appeals board requires careful delineation of agency jurisdiction and perhaps changes in some state laws.

To further facilitate the implementation of the structure, two critical initiatives are also being undertaken. First, the agencies are revising their "purchase of care" policies to reimburse private providers on the basis of actual cost. In two of the larger state agencies, the reimbursements previously were based upon a maximum rate which was less than actual cost. In addition, fee structures are being modified. Second, and perhaps most critial, the state is creating a "funding pool" to which a portion of each of the three

departments' annual appropriation is assigned to provide services to clients served by two or more agencies. While the mechanisms will ensure responsive decision-making at the local level as to who pays for what services, at the state level the funding pool mechanism is designed to minimize competition between state agencies for appropriations. The funding mechanism will also allow opportunities to maximize Federal matching entitlements on an individual case basis.

Case 2: Creation of an Organizational Unit

In this state, which has only recently enacted mirror-image legislation similar to P.L. 94-142, the state education agency recently created a state-wide school district with administrative responsibiities for ensuring that all handicapped children not served by LEAs receive adequate services and for coordination services at both state and local levels. The DSE initially allocated approximately $500,000 to create the district which subsequently has generated approximately $10 million in state funds for expanded operations. This district will also have operational responsibility for education services in state-operated programs (e.g., P.L. 89-313). At the present time, the state-wide school district is directly responsible to the chief state school officer within the SEA; the DSE continues to provide monitoring and enforcement functions.

The SEA is planning to create a second state-wide school district which will have similar responsibilities for all children who are placed in non-public institutions, which have had a long tradition of providing services to the handicapped within the state. A critical element in the success of this structure has been the previous development of a comprehensive set of state regulations which incorporate not only state law and P.L. 94-142, but also all other Federal mandates which, in one way or another, affect the handicapped by providing services or procedural safeguards. Unlike the situation in Case 1 above where the coordinating structure is requiring only minor changes in state laws and regulations, this state has used new legislation and regulations

as the underlying basis for interagency coordination of services and the legitimacy of the state-wide district.

Information Gathering and Reporting

In response to the information gathering and reporting requirements imposed by P.L. 94-142 upon SEAs, a number of exemplary management information systems have been put in place in several states.

Case 1: A Redirected System for Users

Shortly after the passage of P.L. 94-142, this state redirected the focus of its state-wide information system for reporting on special education from state users to local users in an attempt to improve the quality and accuracy of information and to provide useful services to LEAs. To encourage LEAs to use the system and report accurate information (e.g., regarding courts), the SEA provided a "carrot" to slow-moving districts using some of the 20 percent discretionary set-aside funds. Moreover, the SEA provides information to districts to meet the requirements of Federally mandated surveys, such as the biennial OCR 101/102 survey.

The system is used to compile information on the numbers of handicapped children in the state, their special education needs, and the services they receive. The DSE uses the system as a major source of information to meet its planning, monitoring, and accounting responsibilties for special education. Information from the system is used to monitor the special education service delivery system in each of the local public school systems and state operated programs. The system is also used to satisfy Federal reporting requirements under P.L. 94-142, Title VI and Title IX of the Civil Rights Act (as these Titles apply to Special Education), and Section 504.

In addition, system information is used to satisfy several administrative needs at the local level. Compiled statistical reports are provided to the local directors of special education to be used in analyzing current services

in special education, and in planning and budgeting for future service needs. Advocacy and parent-consumer groups are encouraged to use the system in planning and supporting the expansion of special education services. Student groups may also use data from the system in studies of special service delivery systems.

The system does not influence diagnostic or program decisions. It serves as a recording and reporting tool for decisions made by local placement committees in accordance with Federal and state laws, regulations, and local board of education policy.

Among the unique types of reports produced by the system are:

- Office of Civil Right Report: Pupils Participating in Special Education;
- Individualized Education Program Report;
- State Totals by Handicap, Age and Month In Which Special Education Programming Was Ended;
- FTE Positions Needed by Level;
- Staff Caseload by Level; and
- Services and Hours Provided by Level.

Case 2: Comprehensive Cost-Based Reporting System

As a result of the excess cost nature of the state funding formula for special education, this state has developed an exemplary management information system which provides detailed cost information used by the SEA and the state legislature for financial and other decision-making. Detailed cost information which is provided includes types of delivery system (e.g., consultant, itinerant,) by source of funds (state, local and Federal categorical programs), by service provided and by primary handicapping condition. Aggregate level trend information is also provided on:

(a) Special education versus regular education expenditures by category;

(b) Sources of expenditures by category;

(c) Cost, claims, and appropriations by category; and

(d) Other useful information used for program planning and budgeting purposes.

Exemplary Evaluation Strategies of the Implementation of P.L. 94-142

While all states have implemented monitoring activities, several states have developed exemplary strategies to evaluate the impact of P.L. 94-142 and/or their state law.

Case 1: A Comprehensive Coordinated Impact Study

This state, which has a long tradition of special education and a high level of advocacy group activity, implemented in 1980 a two-phased evaluation strategy consisting of a number of focused studies was implemented in 1980.

The first phase consisted of data review studies to organize data previously collected within the SEA and to develop more efficient methods of data collection for future department use. Each bureau within the DSE participated in individual data review studies. At the completion of this phase, a coordinated study was conducted by the evaluation staff within the SEA.

During Phase II, utilizing much of the data collected in Phase I, a number of contractors have been selected, through a competitive process, to conduct a number of major studies. The first study consists of 15 LEA case studies. This study focuses upon specific provisions (e.g., least restrictive environment, IEPs) and their impacts at the classroom, building, district, and community levels. In addition, this study is also focusing upon a number of high-level state policy concerns, particularly fiscal/funding issues. A second

study consists of a phone survey of public school parents and community members to obtain perceptions about the impact of the Law and about possible changes and/or modifications to state law. A third study consists of a number of small substudies. One substudy focuses on the largest metropolitan district within the state. Other substudies include a data review and analysis of funding issues and a historical study of special education developments since the early 1960s.

Case 2: Development of Indicants of Quality

Few, if any, major studies have attempted to assess the impact of special education programs supported by P.L. 94-142, P.L. 89-313 and/or state appropriations upon the educational and general development of handicapped students. Part of the reason can be attributed to the emphasis on process evaluation in P.L. 94-142 with emphasis on procedural safeguards rather than student impact. Recent attempts to assess the impact of students participating in P.L. 89-313 have been attempted but failed for a variety of reasons. Perhaps the most critical omission has been the development of standards by which one can assess the educational development of children participating in special education programs. One of the states is attempting to develop such indicants of educational quality.

In each of the exceptionality areas, the SEA has convened task forces headed by the SEA staff consultant and being comprised of representatives of the LEAs, teachers, IEUs, and others. Each task force has developed an initial draft which identifies indicants of quality for both program services and support services. Several LEAs have asked to participate in pilot tests and validation during the present school year. Pilot tests are being set up in three sites.

An SEA committee reviews all of the quality criteria and standards being proposed by the various task forces and will identify those field tests which offer the highest promise of success. Handbooks for conducting the pilot tests and self-assessment guides will be developed for use by staff involved in the

field tests, as well as other staff providing program or support services in special education. In this sense, the impact of this overall project will extend beyond the scope of the pilot test.

Critical to the success of this project is the participatory involvement of various "users" of the information and products resulting from the field test. This is necessary given the traditional role of the IEU and LEA in designing programs and providing support services.

Creative Use of Intermediate Education Units to Implement P.L. 94-142

In several states, IEUs are being used extensively to implement critical provisions in P.L. 94-142 as described below.

Case 1: A Comprehensive Strategy

In this state, with a long tradition of providing comprehensive services to the handicapped, IEUs have been used by the SEA in a planned and comprehensive manner to implement major provisions of P.L. 94-142. The SEA has assigned a monitoring and enforcement function to each of the IEUs, a new requirement in state laws and regulations. In order to implement this provision, each IEU is provided necessary funds to support one full-time person to fill this monitoring and enforcement role. This individual in each IEU plays a pivotal part in the complaint investigation procedure. For example, all parents' complaints are first filed with the ISD, which is responsible for investigating complaints prior to initiating additional formal steps in the complaint resolution process. Many complaints can be resolved at the IEU level since the IEU is closer than the SEA to the "problem" and is knowledgeable about the context in which the complaint has been filed. In those instances where LEAs have difficulty in providing direct services, at least one IEU provides virtually all direct special education services for children within a specific region. IEUs are also responsible for the operations of residential training centers which fall under their jurisdiction.

Each of the IEUs is responsible for planning and the coordination of services provided by the IEU and all LEAs within its jurisdiction. Delegation of this responsibility to IEUs results in better management of existing resources and appropriate creation or expansion of services where needs are identified. Increasingly, IEUs have been delegated decision-making responsibility over the allocation of primarily state-funded transportation services for special education students.

IEUs are also heavily involved in the development and compilation of individual LEA plans which are submitted to the SEA for approval. To some extent, this reduces the burden placed upon the SEA in the processing applications.

IEUs in this state have a taxing or revenue-raising capacity which can reduce inequities in state funding formula and provide opportunities for LEAs to comply with "maintenance of effort" provisions.

Case 2: Flexible, Two-Way Assistance

While intermediate education units have existed in this state for over ten years, only recently (since the passage of P.L. 94-142) have IEU roles and responsibilities for implementing the state law and P.L. 94-142 emerged. As described below, these new roles should be viewed in the context of this very large state, which initially had to create several hundred "co-ops" to implement P.L. 94-142. This state also has a long tradition of independent state agencies, with a relatively weak role for the governor; this has created problems for the SEA in implementing the SEA supervisory provision.

The new IEU functions are rather specific and are accompanied by "indicators" of success, which can be monitored by the SEA. IEUs provide assistance to both the SEA and LEAs in the following areas:

- Policy development and communication to ensure compliance from all agencies providing public education for handicapped students;

- Program development, which includes regional planning and evaluation services; implementation of a regional program of services for severely and inappropriately served handicapped students; support services, including special education instructional material services through schools; a comprehensive system of personnel development; and services to the visually handicapped;

- Personnel development for school personnel with a focus upon needs assessment, in-service education and evaluation;

- Instructional resource delivery, including the promotion, distribution, and evaluation of available resources to support instruction, including low-cost communications and microcomputer technologies;

- Coordination of services, which includes identification of appropriate agencies that serve handicapped students and promotion of cooperative efforts among these agencies;

- Administrative functions to ensure efficient utilization of resources while the IEUs serve as a link between the SEA and school district program, administering regional planning and evaluation, and coordinating all budgeting, accounting, and auditing for special education.

In addition, IEUs may provide additional services or take on additional roles, including:

- Coordinatation of certain services available through Federal flow-through funds;

- Establish procedures to provide individual assessments;

- Apply directly for Federal grants;

- Apply for P.L. 89-313 funds from the SEA;

- Contract with approved non-public schools on a day or residential basis for educational services for handicapped students.

Within the last year, a number of IEUs have been tapped to provide extensive data collection and data processing. This will constitute the newly implemented SEA management information system for special education. In

addition to processing and reporting information to the SEA, several IEUs will also provide special education data processing and special reports for LEAs.

Creative Approaches for Resolving Conflicts

In virtually all states, new or expanded procedures for hearings and complaint resolution are required for implementation of the due process procedural safeguards of P.L. 94-142. In several states, exemplary and creative approaches were observed.

Case 1: Mediation vs. Formal Hearings

In this state, which has a tradition of formal relations among SEA divisions and between DSE and IEUs/LEAs, an exemplary complaint resolution process has been instituted which relies heavily upon informal procedures (such as mediation) in resolving conflicts, while minimizing time and costs to all parties involved. A number of critical steps and activities are summarized below.

Within the DSE, a complaint officer has been designated. All complaints (from sources such as parents and "protection and advocacy" units) are channeled to this individual. When a possible complaint becomes apparent, the DSE complaint officer contacts the appropriate IEU director of special education, who is asked to review the situation and report back to the complaint officer within a specified time. Based upon this report, plans for correction are then established. In those instances where complaints involve judgments, the IEU or LEA personnel are informed of the issue and requested to review the position taken by the agency involved. Concurrently, parents are informed of their right to appeal. The parents and the LEA/IEU are also given specific information regarding mediation conferences which are available.

If mediation is requested, all parties are asked to participate in this voluntary conference. It is designed to resolve difficulties prior to formal hearings. The DSE complaint officer and other knowledgeable DSE individual

arrange for and conduct the mediation conference, which may consist of representatives from the LEA, the IEU, and parents or their repesentatives. The role of the mediator is to assist the group in: (a) defining the problem area; (b) analyzing areas of concern; (c) stressing possible solutions; (d) identifying areas which all parties may wish to review; (e) referring successful approaches found by others involving similar issues; (f) synthesizing general areas of concerns; (g) recording positions, arguments, etc.; and (h) conducting formal hearing procedures, if necessary.

Critical to the success of this approach is the number of informal contacts made with participants to develop a trust in the mediator, as well as establishment of the areas of contention. In many instances, mutually agreed actions to be carried out after the initial mediation conference are specified by timelines which may include: a request for an independent evaluation, further exploration of program options, arrangements for transportation, staffing needs, and a second mediation conference. In most instances, the mediation approach eliminates the need for a formal special education hearing.

APPENDIX A

SUMMARY OF BEH-SPONSORED
IMPLEMENTATION STUDIES/INITIATIVES

SUMMARY OF BEH-SPONSORED IMPLEMENTATION STUDIES/INITIATIVES

One of the major efforts toward implementation of Public Law 94-142 has been the flow of information and technical assistance from the Bureau of Education for the Handicapped (BEH) to the states and localities. BEH published proposed rules and regulations under P.L. 94-142 in three parts. During 1976, the Bureau solicited comments from a wide variety of individuals and groups, and conducted or participated in a series of conferences (both geographically based and for special interest groups) to inform key personnel about the Law and to solicit further comments on important issues that needed to be addressed in the regulations. In June 1976, the Bureau convened a large national writing team to develop concept papers, which became the basis for the regulations. Extensive public comments were received and taken into account in revising the regulations. Final regulations were issued in August 1977.

BEH also contracted with the Council for Exceptional Children (CEC) to develop a series of multi-media packages designed to explain P.L. 94-142 to parents, administrators, and general audiences. These materials have been disseminated to state education agencies and to major parent organizations and advocate groups. The National Association of State Directors of Special Education (NASDSE) has developed materials and has trained several thousand individuals through workshops on IEPs; it has also produced handbooks for child identification programs and other procedures.

In addition to these information activities, BEH has sponsored a number of studies of state laws for the education of the handicapped and general studies of the problems associated with the implementation of P.L. 94-142. One of the most useful state case studies was done by Weatherly and Lipsky (1977) in Massachusetts. They looked closely at the first year of implementation of Chapter 766 in three school districts.

The Institute for Educational Leadership (IEL) conducted a series of regional conferences on P.L. 94-142 for BEH. These conferences, cosponsored by the National Conference of State Legislatures, the National Association of State Boards of Education, and the National Governor's Conference, were attended by nearly 200 representatives from the states, including legislators, members of state boards of education, governors' aides, chief state school officers, and state special education administrators.

Nero Associates, under contract to BEH, has conducted a four-state study of the development of IEPs as well as a study of parent involvement in special education decision-making in Connecticut. TURNKEY did a case study of the Special Services Information System (SSIS) in Maryland, also under contract to BEH, to determine whether it would meet the overall reporting and other requirements of P.L. 94-142.

Concurrent with the implementation of some of the above initiatives, the Program Studies Branch of BEH developed an overall evaluation plan for P.L. 94-142. The "informal memorandum" describing the plan and activities to date focuses upon six priority questions as follows: "(1) Are we serving the intended beneficiaries?; (2) In what settings are the beneficiaries being served?; (3) What services are being provided to beneficiaries?; (4) What administrative mechanisms are in place?; (5) What are the consequences of implementing the law?; and (6) To what extent is the intent of the law being met?"

The six questions and related studies focus upon evaluation questions mandated by Congress in Section 618 of the Law. Directed at "intended beneficiaries", three studies were conducted: one to study the variation in state definitions of handicapped conditions; a second to assess state capabilities to collect, maintain, and aggregate data; and a third focused upon child counts and states' capabilities to respond to the new demands of P.L. 94-142.

A number of studies initiated in FY 1977 focused upon activities undertaken to implement the Law during its first year: one analyzed available data and study reports; and a second was a longitudinal exmination of the impact of the Law on a small sample of LEAs. Several studies were also initiated to explore the issue of quality: one to develop standards for assessing activities; and another to focus specifically on IEPs. Another series of studies were undertaken to examine the consequences of the Law, particularly at the local level. While one of these case studies focuses upon significant problems for teachers, another series of nine case studies describes and analyzes the consequences of the implementation upon the LEA more generally.

Studies initiated during FY 1978 attempted to document practices at the LEA level and provide preliminary information for the subsequent assessment of service delivery impact. One study focuses upon decision rules observed at the LEA level to determine placement. Another examines the impact of children and their families over time.

In addition to the studies initiated by the Program Studies Branch, a number of other relevant policy efforts have been undertaken by other divisions within BEH to assess the implementation of the Law. One such study was identifying and assessing the cost of providing special education services; two DAS studies assessed due process and procedural safeguards and interagency coordination at the local level.

In addition to these special studies, DAS, which is responsible for SEA monitoring and enforcement, conducts biennial program administrative reviews (PARs) in each state. Subsequent to the conduct of on-site PARs, officials in DAS review SEA annual plans which require BEH approval prior to the release of entitlements; on-site PAR reviews are conducted at least every other year at each SEA and at a limited number of SEAs in the state. The major focus of the PARs are upon the degree of SEA compliance with the provisions of the Law. Discussions with knowledgeable BEH/DAS officials indicate that none of its studies or other planned activities are designed to address the specific issues

in this proposed effort, although one or two studies do focus on state-developed definitions.

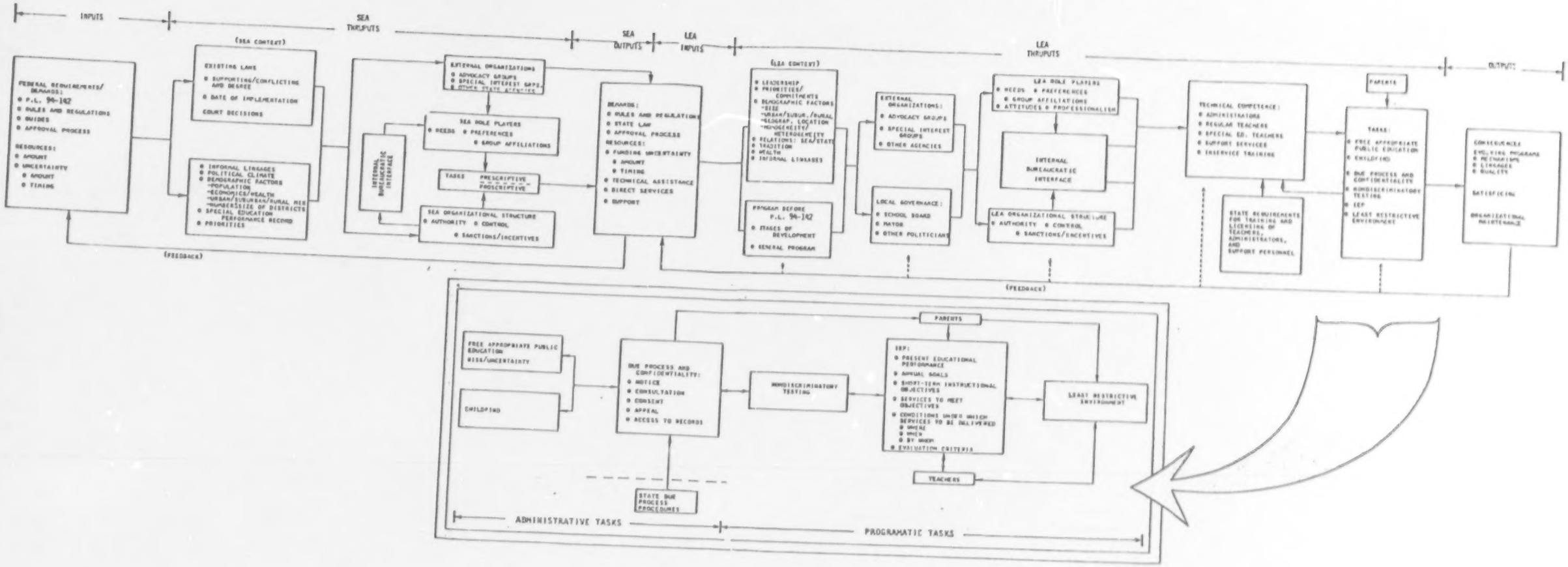
Various interest groups concerned with P.L. 94-142 have conducted studies or problems associated with implementation. NASDSE has surveyed its members on their opinions about regional resource center services and about fiscal, legal, and programmatic problems of implementation. The Education Commission of the States conducted an early survey of problems confronting states during the pre-implementation phase. These surveys and conferences understandably reflect some biases of vested interests and the groups involved and/or impacted.

In summary, a number of initiatives have been undertaken to assist in the implementation process; evaluations of this process have focused upon the local level. Reviews and studies of state-level activities have been limited to reporting technical assistance and compliance issues.

APPENDIX B

CONCEPTUAL MODEL FOR THE IMPLEMENTATION OF P.L. 94-142

CONCEPTUAL MODEL FOR THE IMPLEMENTATION OF P.L. 94-142



APPENDIX C

STATE DATA SHEETS

Exhibit 2: Demographic Data on the 50 States

State	Variables					
	1	2	3	4	5	6
Alabama	3,665,000	21	25.4	-	5,105	S
Alaska	382,000	50	-	-	10,178	W
Arizona	2,270,000	32	3.0	H,I	5,817	W
Arkansas	2,109,000	33	16.9	-	5,073	S
California	21,520,000	1	7.6	H,I	7,164	W
Colorado	2,583,000	28	3.4	H,I	6,503	W
Connecticut	3,117,000	24	6.1	H,I	7,373	E
Delaware	582,000	47	14.7	-	7,290	E
Florida	8,421,000	8	14.2	H,I	6,108	S
Georgia	4,970,000	14	26.1	-	5,571	S
Hawaii	887,000	40	-	I	6,969	W
Idaho	831,000	41	-	-	5,726	W
Illinois	11,229,000	5	13.7	H,I	7,432	C
Indiana	5,302,000	12	7.3	I	6,257	C
Iowa	2,870,000	25	1.4	-	6,439	C
Kansas	2,310,000	31	4.7	-	6,495	C
Kentucky	3,428,000	23	7.2	-	5,423	C
Louisiana	3,841,000	20	29.8	-	5,386	S
Maine	1,070,000	38	-	-	5,385	E
Maryland	4,144,000	18	20.1	I	7,036	E
Massachusetts	5,809,000	10	3.6	I	6,585	E
Michigan	9,104,000	7	11.9	I	6,994	C
Minnesota	3,965,000	19	1.0	-	6,153	C
Mississippi	2,354,000	29	35.9	-	4,575	S
Missouri	4,778,000	15	-	-	6,005	C
Montana	753,000	43	10.6	-	5,600	W
Nebraska	1,533,000	35	3.0	-	6,240	C
Nevada	610,000	46	6.0	-	7,337	W
New Hampshire	822,000	42	-	-	5,973	E
New Jersey	7,336,000	9	11.9	H,I	7,269	E
New Mexico	1,168,000	37	-	H	5,313	W
New York	18,084,000	2	13.2	H,I	7,100	E
North Carolina	5,469,000	11	21.9	-	5,409	S
North Dakota	643,000	45	-	-	5,400	C
Ohio	10,690,000	6	9.6	I	6,432	C
Oklahoma	3,766,000	27	7.1	-	5,657	W
Oregon	2,329,000	30	1.3	-	6,331	W
Pennsylvania	11,863,000	4	8.8	I	6,466	E
Rhode Island	927,000	39	3.0	I	6,498	E
South Carolina	2,848,000	26	30.8	-	5,126	S
South Dakota	686,000	44	-	-	4,796	C
Tennessee	4,214,000	17	15.6	-	5,432	S
Texas	12,487,000	3	12.5	H,I	6,243	S
Utah	1,228,000	36	-	-	5,482	W
Vermont	476,000	48	-	-	5,480	E
Virginia	5,032,000	13	18.7	I	6,276	S
Washington	3,412,000	22	2.3	-	6,772	W
West Virginia	1,821,000	34	3.6	-	5,394	S
Wisconsin	4,609,000	16	3.1	I	6,293	C
Wyoming	350,000	49	-	-	6,733	W

Exhibit 2 (continued)

Variables

1. State population, 1976; U.S. Bureau of the Census, Current Population Reports, forthcoming.

2. State rank on population, 1976; U.S. Bureau of the Census, Current Population Reports, forthcoming.

3. Percent blacks in the population, 1975; '-' indicates fewer than 25,000, percent not computed; U.S. Bureau of the Census, Current Population Reports, forthcoming.

4. Other minorities in population; 'H' indicates significant Hispanic population in 1974; 'I' indicates significant immigrant population in 1976; U.S. Office for Civil Rights, unpublished data, and U.S. Immigration and Naturalization Service, Annual Report, 1976.

5. Per capita income, 1976; U.S. Bureau of Economic Analysis, Survey of Current Business, April 1977.

6. Region.

Exhibit 3: General Education Data on the 50 States

State	Variables 1	2	3	4	5a	5b	5c	6
Alabama	752,507	127	1,199	4.67	6.1	63.5	20.4	56,400
Alaska	91,190	52	2,705	3.38	15.1	64.9	20.0	1,900
Arizona	502,817	233	1,742	2.91	10.5	47.8	41.2	56,200
Arkansas	460,593	384	1,045	3.57	15.5	52.2	32.3	20,800
California	4,380,300	1,034	1,440	3.65	9.2	40.4	50.4	437,800
Colorado	570,000	181	1,769	3.79	6.8	39.8	53.4	40,600
Connecticut	635,000	165	1,741	2.68	4.1	27.7	68.2	98,900
Delaware	122,273	26	1,803	3.15	8.0	67.7	24.3	18,700
Florida	1,537,336	67	1,765	4.19	6.2	54.6	39.2	147,600
Georgia	1,095,142	188	1,235	3.24	12.1	51.9	36.0	71,200
Hawaii	174,943	1	1,704	6.00	7.3	92.7	--	34,300
Idaho	200,005	115	1,491	3.26	10.9	49.5	36.7	4,800
Illinois	2,238,129	1,022	1,650	3.32	6.2	46.2	47.6	412,400
Indiana	1,163,179	304	1,471	3.90	5.7	40.6	53.3	102,700
Iowa	605,127	449	1,684	3.80	4.6	38.0	57.4	66,700
Kansas	435,526	307	1,589	3.38	11.6	42.7	44.6	32,800
Kentucky	694,000	181	1,093	3.90	14.6	49.5	31.1	71,400
Louisiana	839,499	66	1,208	3.19	17.5	46.2	26.8	165,900
Maine	248,822	221	1,302	3.09	8.1	40.6	47.3	16,800
Maryland	860,929	24	1,828	3.56	5.7	39.5	54.8	133,600
Massachusetts	--	358	--	2.73	4.1	23.5	72.4	175,600
Michigan	2,035,703	583	1,560	3.85	3.8	51.7	44.4	220,100
Minnesota	862,591	438	1,831	4.10	5.5	54.7	39.3	100,200
Mississippi	510,209	150	1,062	3.93	21.2	55.0	23.8	66,300
Missouri	950,142	560	1,335	2.84	8.2	35.0	51.0	141,200
Montana	170,552	577	1,643	3.47	6.1	57.6	29.1	8,800
Nebraska	312,024	1,132	1,345	3.81	7.4	17.6	71.8	45,300
Nevada	141,791	17	1,450	2.84	5.5	40.4	54.2	5,600
New Hampshire	175,496	156	1,343	3.13	6.0	9.4	84.6	20,500
New Jersey	1,427,000	569	2,076	3.87	4.1	29.4	56.5	300,800
New Mexico	284,719	88	1,572	3.79	20.6	63.4	16.0	14,000
New York	3,378,997	737	2,360	3.63	4.6	39.9	55.5	705,600
North Carolina	1,191,316	145	1,242	3.80	13.1	66.3	20.6	56,800
North Dakota	129,106	322	1,373	2.89	7.2	48.8	35.4	12,400
Ohio	2,249,440	622	1,413	3.65	5.9	36.6	66.5	284,100
Oklahoma	597,655	624	1,258	4.91	11.1	50.0	34.0	10,200
Oregon	474,707	332	1,722	4.30	5.9	29.0	48.0	24,100
Pennsylvania	2,193,673	504	1,901	3.75	8.7	48.1	43.2	467,900
Rhode Island	172,373	40	1,721	3.21	7.9	35.9	56.2	32,300
South Carolina	620,711	92	1,177	4.61	14.7	58.8	26.5	49,400
South Dakota	148,080	190	1,270	3.08	14.5	14.2	70.6	14,800
Tennessee	841,974	147	1,183	3.48	11.1	53.0	35.9	44,700
Texas	2,822,754	1,098	1,300	2.88	10.4	50.2	39.2	135,300
Utah	314,471	40	1,384	3.42	7.4	57.9	34.8	3,900
Vermont	104,356	247	1,581	3.17	6.0	29.5	26.5	9,800
Virginia	1,100,723	133	1,408	3.88	11.0	30.6	58.4	89,800
Washington	780,730	301	1,572	4.37	8.3	51.5	40.2	44,500
West Virginia	404,771	55	1,311	3.94	12.3	56.3	31.4	12,700
Wisconsin	945,337	435	1,797	3.62	7.5	32.1	60.3	189,400
Wyoming	90,587	51	1,688	1.86	8.9	32.9	38.6	3,100

Exhibit 3 (continued)

Variables

1. Number of pupils in the public schools, Fall 1976; National Center for Education Statistics, Statistics of Public Elementary and Secondary Day Schools, Fall 1976.

2. Number of LEAs in state; National Center for Education Statistics, Education Directory: Public School Systems, 1976-77.

3. Per pupil expenditures based on average daily attendance, 1976; National Center for Education Statistics, Digest of Education Statistics, 1976 Edition.

4. School centralization score; F. M. Wirt, School policy culture and state decentralization, in J. D. Scribner, ed., The Politics of Education, 76th Yearbook of the National Society for the Study of Education, Part II (Chicago: University of Chicago Press, 1977).

5. Sources of education revenues as percent of total: (a) Federal, (b) state, (c) local; Congressional Budget Office, Elementary, Secondary, and Vocational Education: An Examination of Alternative Federal Roles, January 1977.

6. Private school enrollment, Fall 1976; National Center for Education Statistics, Digest of Education Statistics, 1976 Edition.

Exhibit 4: Special Education Data on the 50 States

Variables

State	1a	1b	2a	2b	3a	3b	4a	4b	5	6a	6b	7
Alabama	21,324	53,987	2.6	5.99	9,843,722	28,350,000	3.8	6.7	76.3	3,365,542	3,776,498	1977
Alaska	1,875	9,598	1.9	7.34	4,894,468	9,390,432	3.6	7.2	100.0	490,576	490,576	1971
Arizona	12,678	43,046	2.5	7.34	3,209,234	16,635,463	1.7	5.8	194.1	1,921,124	2,537,384	1976
Arkansas	12,388	28,487	2.7	6.58	485,000	6,743,188	0.4	3.3	775.0	1,829,462	1,829,462	1979
California	318,576	332,291	6.3	6.75	154,005,596	207,303,962	10.7	7.9	-26.2	18,609,066	33,333,515	1978
Colorado	37,512	47,944	6.3	7.30	6,750,000	22,665,000	4.1	6.8	65.8	2,335,174	2,845,535	1973
Connecticut	33,694	62,085	4.8	8.13	15,705,684	51,119,000	5.7	18.7	228.1	2,763,013	3,922,276	1967
Delaware	8,351	14,307	6.0	8.83	8,800,000	16,900,000	8.4	11.7	39.3	622,304	778,244	-
Florida	104,601	117,258	6.5	6.38	42,842,415	133,514,605	5.9	10.3	74.6	638,764	7,978,528	1973
Georgia	65,061	85,209	5.7	6.85	18,178,026	43,138,645	4.3	7.2	67.4	4,618,156	5,936,761	1977
Hawaii	9,106	10,545	4.9	4.68	6,636,652	8,534,358	3.4	4.0	17.6	836,263	836,263	-
Idaho	8,395	14,573	8.9	6.93	1,900,510	9,311,006	8.1	5.8	21.0	781,714	895,385	1972
Illinois	180,877	229,757	7.5	7.84	59,575,000	115,044,000	5.9	7.1	20.3	10,221,515	14,912,002	1969
Indiana	86,569	87,645	6.9	6.31	3,754,908	16,500,000	1.1	3.2	190.9	5,010,905	5,839,638	1973
Iowa	36,521	51,056	5.4	7.20	5,700,000	10,765,000	1.6	3.2	100.0	2,634,753	3,293,313	1975
Kansas	27,713	37,623	5.1	6.91	5,841,000	9,476,000	3.0	4.2	40.0	2,040,933	2,561,060	1979
Kentucky	24,334	57,058	3.2	6.73	11,445,552	20,427,000	4.8	5.5	14.6	3,098,951	3,890,944	1979
Louisiana	45,054	86,589	5.2	8.24	1,675,280	31,450,273	1.9	6.0	215.8	3,775,472	5,860,310	1978
Maine	6,341	23,702	2.7	8.65	1,352,615	4,350,000	1.9	3.5	84.2	960,286	1,430,099	1975
Maryland	65,959	84,184	6.9	7.94	27,844,000	40,977,000	5.7	5.7	0.0	3,835,476	5,108,386	1979
Massachusetts	62,760	131,992	5.0	8.72	18,120,250	93,000,000	5.7	20.0	250.9	5,212,919	8,442,257	1974
Michigan	165,818	153,113	7.4	6.16	55,000,000	90,050,000	6.6	6.7	9.8	8,817,578	10,074,857	1973
Minnesota	70,323	72,136	7.6	7.21	18,633,000	28,500,000	2.9	3.7	27.6	3,758,157	4,935,284	-
Mississippi	16,427	29,219	3.0	4.55	240,000	8,199,119	0.1	3.4	3400.0	2,317,010	2,317,010	-
Missouri	65,110	94,388	6.0	8.24	14,005,208	28,229,434	4.3	6.8	58.1	4,267,874	6,398,215	1974
Montana	5,358	8,610	3.0	4.35	5,476,340	13,457,275	9.6	19.0	97.9	735,291	735,291	1979
Nebraska	23,734	25,370	7.0	6.78	3,472,000	10,336,357	8.0	10.2	27.5	1,298,151	1,770,296	1976
Nevada	6,300	11,134	4.0	7.05	3,565,950	6,293,000	6.7	10.7	59.7	599,425	599,425	1973
New Hampshire	6,070	9,916	3.6	4.43	336,117	1,304,851	5.7	10.0	10.4	760,460	760,460	1965
New Jersey	29,189	145,077	6.4	7.96	32,455,944	61,540,794	5.9	7.7	30.5	6,457,752	9,837,092	1954
New Mexico	8,655	15,150	2.9	4.72	4,500,000	12,661,000	2.4	6.2	158.3	1,128,789	1,128,789	1977
New York	321,219	240,251	6.2	5.37	0	196,559,631	0.0	6.7	—	15,738,278	15,782,022	1973
North Carolina	73,542	98,036	6.1	7.13	22,555,864	40,821,227	3.6	4.0	11.1	4,992,790	6,519,459	1974
North Dakota	8,947	8,977	5.9	5.33	670,848	1,591,746	1.7	2.3	35.2	671,532	671,532	1980
Ohio	175,300	168,314	7.1	5.99	66,245,828	103,046,543	5.9	9.4	-5.1	10,057,668	11,052,816	1976
Oklahoma	33,744	44,181	3.7	7.00	1,250,000	7,624,585	5.6	2.4	300.0	2,354,030	2,948,682	1970
Oregon	26,274	37,258	5.3	6.46	3,962,496	5,273,196	3.9	2.9	-25.6	1,975,758	2,343,180	1973
Pennsylvania	148,751	204,792	6.1	7.18	81,403,000	168,000,000	5.6	9.2	39.4	10,378,532	13,806,578	1976
Rhode Island	13,475	15,971	6.8	7.04	13,500,000	16,500,000	19.9	17.8	-10.6	843,286	1,014,913	1964
South Carolina	38,275	72,357	5.9	9.52	10,073,473	19,029,489	3.6	4.9	36.1	2,710,586	4,967,615	1978
South Dakota	4,414	9,937	2.6	5.58	350,000	350,000	1.6	1.5	-6.3	698,770	698,770	-
Tennessee	49,173	99,251	4.4	10.05	13,459,033	33,513,923	4.6	7.2	56.5	3,707,001	5,812,671	1974
Texas	174,161	233,553	6.2	7.33	74,186,400	190,805,000	6.8	13.6	100.0	11,265,148	15,522,153	1976
Utah	29,955	37,304	9.0	11.48	10,857,329	13,573,252	7.8	7.3	-6.4	1,373,009	2,057,060	1959
Vermont	4,612	6,382	3.9	3.52	2,069,574	3,173,000	4.7	6.5	38.3	539,113	539,113	1972
Virginia	44,768	77,616	4.0	6.30	11,107,000	21,328,675	3.2	5.2	62.5	4,561,746	5,296,453	1976
Washington	64,333	70,972	7.8	8.11	24,381,645	33,283,243	6.9	5.9	-14.5	3,201,385	4,867,187	1973
West Virginia	15,104	30,136	3.6	7.32	2,004,208	4,633,575	1.1	3.0	81.8	1,567,670	2,078,304	1974
Wisconsin	58,845	58,020	5.7	4.73	22,282,238	37,752,286	6.9	7.2	4.3	4,348,328	4,348,328	1976
Wyoming	5,445	7,261	6.1	7.45	743,815	5,000,000	2.4	12.8	433.3	470,998	470,998	1969

Exhibit 4 (continued)

Variables

1. Number of handicapped pupils: (a) 1972, (b) 1977; W. H. Wilken and D. O. Porter, State Aid for Special Education: Who Benefits?, National Institute of Education, 1977; U.S. Office of Education, Bureau of Education for the Handicapped, Data Notes, September 1977.

2. Number of Handicapped pupils as a percent of public school enrollment: (a) 1972, (b) 1977; W. H. Wilken and D. O. Porter, State Aid for Special Education: Who Benefits?, National Institute of Education, 1977; U.S. Office of Education, Bureau of Education for the Handicapped, Data Notes, September 1977.

3. State aid for special education: (a) 1972, (b) 1975; W. H. Wilken and D. O. Porter, State Aid for Special Education: Who Benefits?, National Institute of Education, 1977.

4. State aid for special education as a percent of total state aid to LEAs: (a) 1972, (b) 1975; W. H. Wilken and D. O. Porter, State Aid for Special Education: Who Benefits?, National Institute of Education, 1977.

5. Growth in state aid to special education as a percent of total state aid to LEAs, 1972-1975; W. H. Wilken and D. O. Porter, State Aid for Special Education: Who Benefits?, National Institute of Education, 1977.

6. State grants under Part B of the Education of the Handicapped Act: (a) 1977, (b) 1978; U.S. Office of Education, Bureau of Education for the Handicapped, Data Notes, December 1977.

7. Date of effective implementation of state special education law; National Association of State Directors of Special Education, State Profiles in Special Education, 1977.

Exhibit 5: Example of Ratings for State Selection
(East of Mississippi)

STATES	NASDSE and Implementation Date	State Expenditures	State Compliance Projections (BEH)	Site Visit Information (BEH)	Annual Plan Approved	TURNKEY Staff Concensus	Concensus Ranking
Maine	2	3	1	-	-	3	-
New Hampshire	1	3	-	-	-	3	-
Vermont	1	2	3	1	-	2	-
Rhode Island	1	2	3	2	-	2.5	-
Pennsylvania	3	1	2	-	-	1	-
Maryland	3	2	2	2	-	2	2
New Jersey	-	1	-	-	-	1	1
Virginia	2	2	3	3	-	1.8	2
West Virginia	1	3	-	2	-	2.5	-
Tennessee	1	2	1	1	1	2	1
Kentucky	3	2	-	-	3	3	3
North Carolina	2	2	-	-	1	2	2
South Carolina	2	3	-	-	1	2.5	3
Georgia	3	2	1	2	1	2	2
Florida	3	1	1	-	3	1.5	-
Alabama	2	3	3	1	1	2.5	3
Mississippi	-	3	-	3	3	3	3
Wisconsin	3	2	-	-	-	2	-
Illinois	1	-	-	-	1	1	1
Indiana	3	3	-	-	-	2	-
Ohio	2	2	2	2	-	2	2
Michigan	2	2	-	-	-	2	2
Connecticut	1	1	-	-	1	1	1
Louisiana	3	3	3	3	-	2.5	3

1 = high
2 = middle
3 = low

APPENDIX C

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BIBLIOGRAPHY

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